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Executive Orders

EXECUTIVE ORDER MJF 98-2

DWI/Vehicular Homicide Task Force

WHEREAS: Executive Order MJF 96-9, signed on April 15, 1996, established the Governor's DWI/Vehicular Homicide Task Force (hereafter "task force");

WHEREAS: the membership of the task force has been expanded by Executive Orders MJF 97-8, signed on January 30, 1997, and MJF 97-55, signed on December 3, 1997; and

WHEREAS: it is again necessary to expand the membership of the task force;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 2 of Executive Order MJF 96-9 is amended to add a second at-large member as follows:

M. Two at-large members.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-9 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 13th day of January, 1998.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9802#005

EXECUTIVE ORDER MJF 98-3

Mississippi River Corridor Task Force

WHEREAS: Executive Order MJF 98-1, signed on January 7, 1998, established the Mississippi River Corridor Task Force (hereafter "task force");

WHEREAS: it is necessary to amend the composition of the membership of the task force;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority

vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 4 of Executive Order MJF 98-1 is amended as follows:

The task force shall be composed of at least 14 members appointed by and serving at the pleasure of the governor. The membership of the task force shall be selected as follows:

- A. the governor, or the governor's designee;
- B. the secretary of the Department of Environmental Quality, or the secretary's designee;
- C. the secretary of the Department of Economic Development, or the secretary's designee;
- D. the commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;
- E. the secretary of the Department of Labor, or the secretary's designee;
- F. the secretary of the Department of Health and Hospitals, or the secretary's designee;
- G. the chair and one member of the task force on Environmental Protection and Preservation;
- H. the president of the statewide chapter of the NAACP;
- I. a president of a local branch of the NAACP;
- J. a member of a local branch of the NAACP who resides in the corridor;
- K. a representative of a permitted facility in the corridor who has community outreach experience; and
- L. two residents of the corridor.

SECTION 2: All other Sections and Subsections of Executive Order MJF 98-1 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of January, 1998.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9802#006

EXECUTIVE ORDER MJF 98-4

Computer Systems
Year 2000 Compliant

WHEREAS: Executive Order MJF 96-50, signed on October 17, 1996, announced the policy of the State of Louisiana for year 2000 compliance by July 1, 1999; and

WHEREAS: it is necessary to amend various provisions in Executive Order MJF 96-50;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 1 of Executive Order MJF 96-50 is amended to provide as follows:

Any contract for the purchase or acquisition of computer hardware, software, firmware product, data processing service, information system and/or custom computer item, in excess of \$5,000, by any state agency, commission, board, entity, or department (hereafter "state agency"), shall include a provision that any such item(s) or services(s) purchased or acquired shall be "year 2000 compliant" on or before July 1, 1999.

SECTION 2: Section 2 of Executive Order MJF 96-50 is amended to provide as follows:

A. The term "year 2000 compliant" as used in this Order means the hardware, software, firmware product, data processing service, information system, and/or custom computer item (hereafter "product"), when used properly, shall accurately process, provide, and/or receive data before, during, or after January 1, 2000.

B. When interpreting the foregoing definition, the following illustrative rules shall apply:

1. A system means two or more specific listed products that a contract designates are to perform together. The specific listed products need not be purchased at the same time or from the same vendor, and may include products already owned by the state agency.

2. If a contract indicates that specific listed products are performing or shall perform as a system, then such products shall accurately process, provide, exchange, and/or receive data before, during, or after January 1, 2000.

SECTION 3: Section 3 of Executive Order MJF 96-50 is amended to provide as follows:

The provisions of this Order shall not apply to any contract perfected or entered into prior to October 17, 1996.

SECTION 4: All other Sections and Subsections of Executive Order MJF 96-50 shall remain in full force and effect.

SECTION 5: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be fixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of January, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9802#007

EXECUTIVE ORDER MJF 98-5

Bond Allocation—Parish of Grant

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Parish of Grant has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, and installation of certain equipment (the "Project") to be used in the existing manufacturing facility of Farmland Industries, Inc., in accordance with the provisions of Section 146 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$1,000,000	Parish of Grant	Farmland Industries, Inc

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before April 22, 1998.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 22nd day of January, 1998.

M.J. "Mike" Foster
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9802#008

EXECUTIVE ORDER MJF 98-6

Transportation Infrastructure Model for Economic Development Review Task Force

WHEREAS: on October 7, 1989, the people of the state of Louisiana approved an amendment to Article VII, Section 27 of the Louisiana Constitution of 1974 (hereafter "the amendment") which, effective January 1, 1990, established the Transportation Trust Fund (hereafter "trust") in the state treasury and provided for the avails of the gasoline and motor fuel tax and special fuels tax to be credited to the trust;

WHEREAS: the amendment also mandated that the Transportation Infrastructure Model for Economic Development (hereafter "TIMED"), which includes only those projects enumerated in Act 16 of the First Extraordinary Session of 1989 (hereafter "Act 16"), shall be funded as provided by law;

WHEREAS: R.S. 47:820.2 directs the state treasurer to create the Transportation Infrastructure Model for Economic Development Account (hereafter "account") within the trust, and to fund it with a 15-year \$.04 per gallon gasoline tax (hereafter "tax"), as described in R.S. 47:820.1 and 820.4, and that the monies in the account shall be used solely to fund the TIMED program;

WHEREAS: the purpose of the TIMED program is to dedicate the funds in the account to the 16 designated highway, bridge, port, and airport projects (hereafter "projects") listed in Act 16, R.S. 47.820.2(B);

WHEREAS: the projects were designed to achieve a balance between the state's need for transportation infrastructure improvement and the state's overall need for economic development;

WHEREAS: pursuant to the provisions of R.S. 47:820.4, the tax shall expire in the year 2004, even though 11 of the projects will not be completed;

WHEREAS: significant changes in the economic development and transportation infrastructure improvement needs of the state, not envisioned at the time of the enactment of the TIMED program, have occurred since the ratification of the constitutional amendment in 1989; and

WHEREAS: due to these changes, the interests of the citizens of the state of Louisiana would be best served by the creation of a task force charged with the duty of evaluating the state's continued need for projects not yet completed and for additional projects not listed in Act 16, based on the cost effectiveness of the projects and the economic development and transportation improvement infrastructure needs of the state, so that a reasoned decision can be made regarding the state's need to reenact and renew the tax and TIMED program and amend the provisions of Article VII, Section 27 of the Louisiana Constitution;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Transportation Infrastructure Model for Economic Development Review Task Force (hereafter "task force") is established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the task force shall include, but are not limited to, the following:

A. reviewing the incomplete projects in the TIMED program, and evaluating the continued need for those projects as they relate to the state's transportation infrastructure improvement needs and the overall economic development goals of the state;

B. reviewing proposals for new projects to evaluate the need to amend Article VII, Section 27 of the Louisiana Constitution to permit the inclusion of additional projects within a reenacted and renewed tax and TIMED program; and

C. reviewing the incomplete projects in the TIMED program to evaluate the priority of the projects based on their importance to the economic development objectives and goals of the state and the state's transportation infrastructure improvement needs.

SECTION 3: The task force shall prepare a comprehensive written report on the items listed in Section 2 and submit it to the governor; the House Committee on Transportation, Highways, and Public Works; the House Committee on Ways and Means; the Senate Committee on Transportation, Highway, and Public Works; and the Senate Committee on Revenue and Fiscal Affairs, no later than March 16, 1998.

SECTION 4: The task force shall be composed of 21 voting members who shall be appointed by, and serve at the pleasure of, the governor and two non-voting ex-officio members.

A. Six of the voting members of the task force shall be selected as follows:

1. the governor, or the governor's designee;
2. the commissioner of Administration, or the commissioner's designee;
3. the secretary of the Department of Transportation and Development, or the secretary's designee;
4. the secretary of the Department of Economic Development, or the secretary's designee;
5. the chair of the Infrastructure Committee of the Economic Development Council; and
6. one at-large member.

B. Nine of the voting members of the task force shall be selected by the governor from the lists of nominations submitted by the chambers of commerce located in each of the Department of Transportation and Development's nine planning districts.

C. Six of the voting members of the task force shall be selected by the governor from the lists of nominations submitted by the following groups:

1. the Public Affairs Research Council;
2. the Council for a Better Louisiana;
3. the Louisiana Association for Business and Industry;
4. the Louisiana Business League;
5. the American Federation of Labor—Congress of Industrial Organization (AFL-CIO); and
6. the LA Good Roads Association.

D. The two ex-officio nonvoting members shall be the chairs of the House and Senate committees on Transportation, Highway, and Public Works.

SECTION 5: The governor shall select the chair of the task force. The membership of the task force shall elect all other officers.

SECTION 6: The task force shall meet at the call of the chair.

SECTION 7: Support staff for the task force and facilities for its meetings shall be provided by the Louisiana Transportation Research Center.

SECTION 8: Task force members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, members who are not employees of the State of Louisiana or one of its political subdivisions, or an elected official, may receive reimbursement with advance written approval of the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, upon the approval of the commissioner of Administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the task force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of January, 1998.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9802#040

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer (LAC 7:XXI.1501-1523)

The commissioner of Agriculture and Forestry, on January 30, 1998, issued emergency rules regulating the raising, slaughtering and sale of imported exotic deer and antelope, elk, and farm-raised white-tailed deer for commercial purposes in the state of Louisiana. The commissioner of Agriculture and Forestry has previously determined that there is an imminent peril to the health, safety, and welfare of the citizens of Louisiana and to the agricultural livestock industry in Louisiana, including the alternative livestock industry. The commissioner of Agriculture and Forestry determined that without effective regulations in place, diseased or contaminated animals may be brought into the state of Louisiana or slaughtered and sold as food to be consumed by Louisiana citizens.

Louisiana is certified by the United States Department of Agriculture (USDA) as a tuberculosis- and brucellosis-free state; and the introduction of any imported exotic deer and antelope, elk, and farm-raised white-tailed deer infected with either of these diseases or other diseases will subject Louisiana cattle and other livestock, including alternative livestock, to infection.

The commissioner of Agriculture and Forestry further determined that any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals; and introduction of these diseases into the state would jeopardize Louisiana's certification from the USDA and the loss of the commercial value of livestock; and the effect on the agricultural livestock industry, including alternative livestock, would cause a substantial adverse economic impact on the agricultural economy of this state. The commissioner of Agriculture and Forestry adopted emergency regulations on January 30, 1998 addressing the emergency as stated above.

For the reasons stated, the commissioner of Agriculture and Forestry, in accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, hereby adopts the following amended emergency rules regulating the raising, slaughtering and sale of imported exotic deer and antelope, elk and farm-raised white-tailed deer for commercial purposes in the state of Louisiana. These emergency rules are effective January 30, 1998 and supersede, in their entirety, the

emergency regulations adopted on September 3, 1997. These rules shall remain in effect 120 days or until the final rules become effective, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer

§1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting, and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein:

Alternative Livestock—any imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

Commercial Purpose—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock or any other type of compensation in connection therewith.

Commissioner—The commissioner of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Elk—any animal of the species and genus *Cervus canadensis*.

Farm—any area of land or water, regardless of size, used to breed, raise, or keep farm-raised alternative livestock for a commercial purpose, including but not limited to, breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park, or wildlife exhibit, where their primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park, or wildlife exhibit, where their primary purpose is the exhibition of alternative livestock or other animals.

Farm-Raised White-Tailed Deer—any animal of species and genus *Odocoileus virginianus* which is bred, born, raised and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm-raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit, where their primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

Harvesting—the attempt or act of shooting, wounding, or killing farm-raised alternative livestock within the enclosure system of a farm in a manner consistent with those techniques commonly referred to as hunting in Title 56 of the Louisiana Revised Statutes.

Imported Exotic Antelope—any animal of the family *Bovidae* which is not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

Imported Exotic Deer—any animal of the family *Cervidae* which is not indigenous to North America, including, but not limited to, red deer, seika deer and fallow deer.

LDWF—the Louisiana Department of Wildlife and Fisheries.

Person—any individual, corporation, partnership, or other legal entity.

Quarantine—the requirement, resulting from an order of the department or the State Veterinarian's Office, to secure and physically isolate an animal or animals in a specified confined area to prevent the spread of contagious disease.

White-Tailed Deer—any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1505. Issuance of Farm-Raising License; Renewals

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's and LDWF's inspection.

C. Any changes in any information submitted in the original application occurring during or after the application process shall be submitted in writing to the department. The department and LDWF must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application, before such change or modification may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department, and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31, the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine, the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1507. Fees

A. Farm-Raising License Fees

1. The fee for a new farm-raising license shall be \$50.
2. The farm-raising license renewal fee shall be \$50.
3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by LDWF for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.

4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

B. Harvesting Permit Fee

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from LDWF, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.B.3.

2. The fee due to the department for each harvesting permit shall be \$50, which fee shall be ministerially collected

by LDWF, who shall promptly remit the fee to the department, retaining one-half for administrative costs.

3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state- or federally-approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1507.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state- or federally-approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1509. Farm-Raising Licensing Requirements

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department, the applicant shall provide the following information:

1. name, physical address, mailing address and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased, then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address, and telephone number of the business, if different than the information provided in §1509.A.1;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position (e.g., owner, manager, etc.), residence address and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature and extent of the fencing material and of any right-of-way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair and replacement of the fence, keeping the fence and any clearance along either side of the fence clear, and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tailed deer born, bought, sold, traded or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department and LDWF before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of 8 feet;

b. enclose an area of not less than 150 acres nor more than 2,500 acres unless good cause is shown by the applicant why an enclosure of a different size is not inconsistent with the intent of Part 1 of Chapter 19-A of Title 3 of the Revised Statutes;

c. a minimum gauge wire of 12½;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department; however, welded wire fence shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space; and, if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine;

6. not be subject to an objection for good cause related to wildlife, made in writing to the department by LDWF, which written objection shall follow within 10 working days of a physical inspection of the proposed farm made concurrently and jointly by the department and LDWF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate to the satisfaction of the commissioner a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records; or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's or LDWF's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1513. Obligations of the Farm-Raising Licensee

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm-raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. all white-tailed deer shall be electronically implanted at the base of the left ear immediately upon harvest

whether or not such deer have already been implanted previously. This requirement for electronic implantation is in addition to any and all other requirements for electronic implantation contained in these regulations. This electronic implantation shall remain with the carcass at all times;

e. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified, as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state- or federally-approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

B. Record Keeping

1. Each licensee shall maintain records, for no less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. the total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased or transported;

b. the name and address of the person to whom each farm-raised alternative livestock, or any carcass or parts thereof, was sold, traded, delivered, presented or transported;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs and replacement to the enclosure system, including the fence; and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence, and the nature and location of any repairs or replacements made to the fence;

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. Enclosure System and Fence Inspection and Maintenance

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm no less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence, in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify the department and LDWF, orally and in writing, of the breach or opening; and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department and LDWF pursuant to these regulations.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department. The department shall promptly notify LDWF following receipt of licensee's notice.

5. A licensee, upon cessation of operations or upon revocation or nonrenewal of the farm-raising license, shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department, or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the

farm-raised alternative livestock to be made in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department and authorized representatives of LDWF to inspect the farm at any time; and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1515. Health Certificates and Health Requirements

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state- or federally-approved slaughter facility, shall:

1. meet the general health requirements promulgated at LAC 7:XXI.107.

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock 6 months of age and older entering Louisiana, except those being transported directly to a state- or federally-approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin.

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules* as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service.

B. Prior to any person importing any alternative livestock into Louisiana, LDWF shall be provided by the department a copy of the entry permits or other applicable documents which describe the alternative livestock by species, sex, age and place of origin.

C. Any alternative livestock which has been exposed to brucellosis or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinarian's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1517. Harvesting or Killing of Farm-Raised Alternative Livestock

A. Farm-raised white-tailed deer shall be harvested by killing only from one-half hour before sunrise to one-half hour after sunset during the period of October 1 through January 31 of the following year, as established by the Louisiana Wildlife and Fisheries Commission. Licensees may also harvest at will at any other time from one-half hour before sunrise to one-half hour after sunset upon 48 hours notice to and written approval of the department. Upon receipt of any such notice, the department shall, no later than 24 hours before the harvest, notify LDWF.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time from one-half hour before sunrise to one-half hour after sunset unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner and Louisiana Wildlife and Fisheries Commission may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3 of these regulations, shall first apply for and obtain a harvesting permit to do so from LDWF by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by LDWF shall be valid only for the time periods stated on the face of the permit.

2. LDWF may ministerially issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

3. The applicant shall not be subject to any existing court or administrative order denying the applicant's right to harvest.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill, and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1519. Prohibitions

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and LDWF.

B. Farm-raised white-tailed deer meat or farm-raised white-tailed deer parts of any kind shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state- or federally-approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1521. Enforcement

A. The department's and LDWF's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing, or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

B. Authorized representatives of the department and LDWF may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escape from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

§1523. Penalties

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, those portions

of Title 56 of the Revised Statutes related to wildlife, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine, a fine for up to \$100 per violation for each violation of which such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. Any person or licensee subject to an order or decision made pursuant to these regulations may request and receive an adjudicatory hearing before the department to be held in accordance with the Administrative Procedure Act by making written application for same to the department within 15 days of issuance of such order or decision.

E. The commissioner may seek a restraining order, injunctive relief or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine or to enforce any order or ruling made by him in an adjudicatory proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:

Bob Odom
Commissioner

9802#012

DECLARATION OF EMERGENCY

Office of the Governor Office of Rural Development

Projects, Funding, and Application
Process (LAC 4:VII.1901-1903)

The Office of the Governor, Office of Rural Development has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following emergency rule in the projects and funding of this office under the authority of the Rural Development Law, R.S. 3:311 et seq. This emergency rule, effective February 10, 1998, shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

Emergency rulemaking is necessary in order to permit the office to continue all its legal operations, including funding emergency requests for the health, safety and welfare of citizens in rural areas and to allow time for public hearings and legislative approval of the administrative procedures being

initiated. Notice is given that rulemaking procedures have been initiated to adopt LAC 4:VII.1901-1903.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 19. Rural Development

§1901. Projects or Activities

A. The Office of Rural Development (ORD) provides financial assistance to local units of government throughout the state mitigating the effects of natural and economic emergencies and funding units of local government projects essential to community well-being.

B. Municipalities with populations of less than 35,000 and parishes with populations of less than 100,000 inhabitants will be considered rural for the purposes of this program.

C. The ORD applies the following guidelines to any project or activity funded.

1. All projects or activities funded must be related to rural development revitalization of a rural area, as defined in R.S. 3:313.

2. All funds shall be used to mitigate the rapid deterioration or assist the improvement of rural health, education, agribusiness, transportation, public facilities, tourism, infrastructure, or other defined purposes essential to the socioeconomic well-being and quality of life of Louisiana's rural areas.

3. Projects or activities should further enhance community services and broaden rural employment opportunities whenever possible.

4. Projects or activities should further the provisions of the Rural Development Law, R.S. 3:311-323.

5. At the start of each fiscal year, the executive director shall determine the equal funding level for all eligible parishes, which includes villages, towns and cities within each parish as well as the parish government, based on the total amount budgeted as aid to local governments for rural development grants. The ORD shall make awards to all parishes throughout the year up to that equal funding level.

6. In cases where the eligibility of the parish is limited (parishes more than 100,000 in population with eligible unincorporated areas or eligible municipalities), the parish shall be funded to the maximum of those eligible levels so long as the amount does not exceed the amount to which rural parishes are eligible.

7. Parish governments may request funding for projects that serve a parish-wide area or an unincorporated area within the parish. In cases where a parish's application is for funding a project that is not parish-wide in scope and is designed to benefit an incorporated area within the parish, the governing body of the parish must submit a resolution of support for the project stating that determination.

8. Municipal governments (villages, towns, cities) may not exceed the total funding level as outlined in the ORD application guidelines for rural development grant funds for any fiscal year by having a parish government submit an application to fund a project within the corporate limits of a village, town or city, unless the project is a service that extends beyond the corporate limits and serves an adjoining portion of the parish or unless the project is in response to an emergency

officially declared as defined by state law (R.S. 38:2211 et seq.).

9. Grants approved by the ORD are expected to be completed within one year from the date of signing of the letter of commitment by the executive director of ORD. Extensions will be limited to two on each grant and an extension must be approved in writing by the executive director of ORD.

10. Rural development funds are not intended for salary only projects or ongoing salaried positions.

11. All invoices submitted for reimbursement must be in original form and marked by vendor to identify the invoice as expenses related to the approved ORD grant using the grant number furnished by ORD at the time of issuing the approved letter of commitment.

12. There shall not be awarded to any Local Governmental Agency (LGA), municipal or parish, an additional grant if a previous grant to that LGA is still open past a period of 24 months.

13. Changes or amendments to an application must be in writing and must be approved by the executive director in writing. If the change in an application is so great that it goes from one category to another, the request must include a new abstract and a new budget and must be accompanied by a new resolution of support from the LGA's governing body.

14. Multi-parish regional projects are not intended to be funded by ORD funds, however, if each parish in a region agrees to fund a project that meets the criteria of the ORD grants, with the agreement of its local governing authority and the legislative delegation of that region, the total amount of the regional grant shall be prorated to each parish in that region. The prorated amount shall come out of the total allocated to each participating parish for that fiscal year.

15. A regional project may be funded, provided the legislature appropriates funding for a named regional project above the general appropriation for the ORD. *Regional* is defined as more than one municipality collaborating on a project parish-wide or more than one parish.

D. The director of the ORD shall develop an application procedure satisfying the purposes, intentions, and the implications of regulatory provisions contained in the Rural Development Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:

§1903. Application Process

A. Rural development applications are available from the Office of Rural Development to all who request them. All requests for information may be submitted via mail to the Office of Rural Development, Box 94004, Baton Rouge, LA 70804-9004.

B. Municipalities, parish governments, school boards, other units of government, and special districts are eligible to apply for rural development funds. All applicants must be authorized by law to perform governmental functions and be provided governmental body support, and must be subject to state audit.

C. Current population figures are used to determine the eligibility for funding of municipalities based on appropriations by the legislature. The funding is outlined in the ORD application guidelines for rural development grant funds.

D. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party, or for previously created debt.

E. Grant recipients are required to maintain an audit trail verifying that all funds received under this program were used to fulfill the criteria for funding.

F. Payment shall be made to the Local Governmental Agency which is the project sponsor upon production of invoices and approval of the LGA's request for payment by ORD, according to the agreed terms of a signed and executed letter of commitment.

G. Project funds shall be spent only for the project as described in the grant application designate by the same number as the project award. Changes in the project description and extension of the agreed time for completion must be made in writing, subject to the approval of ORD.

H. Use of grant funds for any project other than that described in the grant application or amended application, or in violation of any terms of the application or letter of commitment/agreement, will be grounds for ORD to terminate the agreement and revoke the funds for the project.

I. All invoices related to the project are the responsibility of the LGA project sponsor, and must be submitted to and approved by ORD before the funds will be released to the LGA, which remains responsible for payment to its vendors in the project.

J. The LGA as project sponsor will agree to hold harmless the State of Louisiana, Office of the Governor, and Office of Rural Development as a term and condition of the letter of commitment/agreement.

K. ORD will de-obligate funds from any unexpended amount, whether by failure to start a project in the agreed upon time frame in the letter of commitment or by unexpended funds in an officially closed project, and from revoked grant awards.

L. Failure of the LGA project sponsor to abide by any article of the local agency assurances section of the grant application or of the letter of commitment/agreement, including state audit procedures, federal and state laws, state ethical rules and policy guidelines of the ORD, shall result in revocation of the grant award and the responsibility of the LGA project sponsor to repay project funds released to it by ORD up to the full amount of the grant award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:311 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Rural Development, LR 24:

Larry Kinlaw
Executive Director

9802#049

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Home Health Program—Surety Bond

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and shall be in effect for the maximum period of 120 days allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

Section 4724 of the Balanced Budget Act of 1997 was enacted August 5, 1997 to deal with a variety of issues designed to eliminate waste, fraud, and abuse in the Medicare and Medicaid Programs. One of these provisions established a requirement that home health agencies provide surety bonds of at least \$50,000 in order to participate in the Medicaid Program. This surety bond is in addition to the similar bond required for participation in the Medicare Program. Section 4724 amends section 1903(i) of the Social Security Act by adding a new paragraph (18). These surety bonds are required to ensure the recovery of overpayments, civil money penalties or assessments.

The Health Care Financing Administration, the federal agency responsible for oversight of the Medicaid Program, published a final rule with comment period on January 5, 1998 to implement the statutory requirement of that law. The rule affects the Medicaid regulations at 42 CFR 441 by creating a new section 42 CFR 441.16 and moving the previous 441.16 to 441.17.

These regulations require that all home health agencies (except government-operated agencies that have no uncollected overpayments in the preceding five years) provide a surety bond with an effective date of January 1, 1998, covering a specific period to the department by February 27, 1998. Home health agencies that have not provided an acceptable surety bond by that date will have their Medicaid payments suspended effective February 28, 1998.

Surety bonds must name the Louisiana Department of Health and Hospitals as obligee. For currently enrolled home health agencies, the amount of the bond is the greater of \$50,000 or 15 percent of the amount listed on the IRS Miscellaneous Income Form (1099) for the most recent year. Home health agencies that incurred overpayments in excess of either of these amounts in the previous fiscal year shall provide surety bonds in the amount of the previous year's overpayment.

Purchasers of existing home health agencies are required to obtain a new surety bond effective the date of the change in ownership. The new owner shall purchase a surety bond in the same amount as the one held by the previous owner.

Home health agencies seeking to enroll as Medicaid providers for the first time will be required to provide a surety bond in the amount of \$50,000.

Government-operated agencies that lose their waiver (exempt status) of this requirement must obtain and provide verification of a surety bond in the appropriate amount within 60 days of the date on which they lose exempt status.

The department will accept surety bonds issued by companies authorized by the United States Department of Treasury. A list of these companies can be found at website address www.fms.treas.gov/c570.html.

The home health agencies will be required to submit the original surety bond and a letter signed by an officer of the company stating the following:

- 1) that the bond has been secured;
- 2) the coverage period; and
- 3) the amount of the bond.

The department will mail a letter to each home health agency notifying it of the amount of the surety bond required for their company and steps to be followed.

The surety bond must comply with all applicable federal laws and regulations pertaining to surety bonds and with all applicable state laws and rules pertaining to letters of credit, surety bonds, or combination thereof contained in the Medical Assistance Program Integrity Law, R.S. 46:437.1 et seq., and applicable rules pertaining thereto.

This action is necessary to comply with the statutory requirement of Section 4724(g) of the Balanced Budget Act of 1997 and avoid possible penalties or sanctions from the federal government. It is anticipated that implementation of this rule is cost neutral.

Emergency Rule

Effective February 3, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4724(g) of the Balanced Budget Act of 1997. This provision requires that, as a condition of participation in the Medicaid Program, a surety bond must be obtained by each home health agency listing the Department of Health and Hospitals as the obligee.

A surety bond amount shall be the greater of the following:

- 1) \$50,000;
- 2) 15 percent of Medicaid payments for the most recent calendar year as reflected on the IRS Miscellaneous Income Form (1099); or
- 3) the amount of incurred overpayments in the previous fiscal year.

The home health agency must provide verification of compliance with this requirement. Acceptable verification consists of the original surety bond and a letter signed by an officer of the surety bond company stating that the bond has been secured, the coverage period, and the amount of the bond.

The department will accept surety bonds issued by companies authorized by the United States Department of Treasury. A list of these companies can be found on the Internet website of the Department of Treasury.

Home health agencies that have not provided an acceptable surety bond by February 28, 1998 will have their Medicaid payments suspended effective February 28, 1998.

The surety bond must comply with all applicable federal laws and regulations pertaining to surety bonds and with all applicable state laws and rules pertaining to letters of credit, surety bonds, or combination thereof contained in the Medical Assistance Program Integrity Law, R.S. 46:437.1 et seq., and applicable rules pertaining thereto.

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

Bobby P. Jindal
Secretary

9802#016

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Medically Needy Program Service Coverage Restrictions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B).

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted an emergency rule to terminate the Title XIX Medically Needy Program as an eligibility category under the Medicaid Program effective July 1, 1996 (*Louisiana Register*, Volume 22, Number 6). This action was taken to avoid a budget deficit in the Medicaid Program due to the lack of sufficient funds required to match the federal financial participation required under Title XIX of the Social Security Act. A subsequent emergency rule was adopted in compliance with Executive Order MJF 96-17 to establish a state-funded Medically Needy Program with limitations (*Louisiana Register*, Volume 22, Number 7).

The department adopted an emergency rule to reinstate the Title XIX Medically Needy Program effective July 1, 1997 (*Louisiana Register*, Volume 23, Number 7). The department has subsequently determined it is necessary to amend the July 1, 1997 emergency rule to place restrictions in service coverage under the reinstated Title XIX Medically Needy Program. The eligibility criteria under the reinstated Title XIX Medically Needy Program shall remain the same as the eligibility criteria utilized in the Title XIX Medically Needy Program prior to July 1, 1996. Service coverage under the reinstated Title XIX Medically Needy Program shall be restricted to:

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;

- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;
- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

The following services shall not be covered under the Title XIX Medically Needy Program:

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home- and community-based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) tuberculosis clinic services.

All other components of the Title XIX Medically Needy Program shall be reinstated in accordance with the federal requirements as stated in the *Code of Federal Regulations*.

The department has decided to adopt an emergency rule to declare the provisions of the July 1, 1997 emergency rule in force.

Emergency Rule

Effective February 26, 1998 and after, the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following service coverage restrictions in the reinstated Title XIX Medically Needy Program:

Covered Services

- 1) inpatient and outpatient hospital services;
- 2) Intermediate Care Facility for the Mentally Retarded (ICF/MR) services;
- 3) Intermediate Care and Skilled Nursing Facility (ICF and SNF) services;

- 4) physician services, medical/surgical services by a dentist;
- 5) nurse midwife services;
- 6) Certified Registered Nurse Anesthetist (CRNA) services, anesthesiologist;
- 7) lab and x-ray services;
- 8) prescription drugs;
- 9) EPSDT (KIDMED) screening services;
- 10) rural health clinic services;
- 11) hemodialysis clinic services;
- 12) ambulatory surgery clinic services;
- 13) prenatal clinic services;
- 14) Federally Qualified Health Center (FQHC) services;
- 15) family planning services;
- 16) durable medical equipment;
- 17) rehabilitation services (PT, OT, ST);
- 18) nurse practitioner;
- 19) medical transportation services (emergency and nonemergency);
- 20) home health services for individuals needing skilled nursing services;
- 21) chiropractic services;
- 22) optometry services;
- 23) podiatry services;
- 24) audiology services; and
- 25) radiation therapy.

Noncovered Services

- 1) dental services or dentures;
- 2) alcohol and substance abuse clinic/services;
- 3) mental health clinic services;
- 4) home- and community-based waiver services;
- 5) home health (nurse aid and physical therapy);
- 6) case management services;
- 7) mental health rehabilitation services;
- 8) psychiatric inpatient services for individuals under 22 years of age;
- 9) Sexually Transmitted Diseases (STD) services; and
- 10) Tuberculosis (TB) Clinic services.

All other components of the Title XIX Medically Needy Program shall be in accordance with federal requirements as stated in the *Code of Federal Regulations*.

Bobby P. Jindal
Secretary

9802#047

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicare Part B Buy-In

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with

the provisions of the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Administrative Procedure Act, or until adoption of the rule, whichever occurs first.

Section 4732 of the Balanced Budget Act of 1997 requires the Medicaid Program to establish a mechanism for payment of Medicare Part B premiums for two new mandatory eligibility groups of low-income Medicare beneficiaries, called Qualifying Individuals (QIs). This provision amends section 1902(a)(10)(E) of the Social Security Act concerning Medicare cost-sharing for Qualified Medicare Beneficiaries (QMBs) and Specified Low-Income Medicare Beneficiaries (SLMBs). It also amends section 1905(b) of the Act concerning the Federal Medical Assistance Percentage (FMAP), by incorporating reference to and establishing a new section 1933, for Qualifying Individuals (QIs). Qualified Medicare Beneficiaries (QMBs) are individuals entitled to Part A of Medicare, whose income does not exceed 100 percent of the federal poverty level, and whose resources do not exceed twice the Supplemental Security Income (SSI) limit. Specified Low-Income Medicare beneficiaries (SLMBs) are individuals entitled to Part A of Medicare, whose income is above 100 percent, but does not exceed 120 percent of the federal poverty level, and whose resources do not exceed twice the SSI limit. Medicaid eligibility for these groups is limited to payment of Medicare Part B premiums.

Qualifying Individuals are individuals who would be QMBs but for the fact that their income exceeds the income levels established for QMBs and SLMBs. This means that QIs must be entitled to Medicare hospital insurance under Part A and have resources that do not exceed twice the maximum amount established for Supplemental Security Income (SSI) eligibility. Unlike QMBs and SLMBs, who may be determined eligible for Medicaid benefits in addition to their QMB/SLMB benefit, QIs cannot be otherwise eligible for medical assistance under the state plan.

Individuals in the first group of QIs (QI-1s) are eligible if their incomes are above 120 percent of the federal poverty line, but less than 135 percent. The Medicaid benefit for QI-1s consists of payment of the full Medicare Part B premium.

Individuals in the second group of QIs (QI-2s) are eligible if their incomes are at least 135 percent of the federal poverty line, but less than 175 percent. The Medicaid benefit for this group consists only of the portion of the Medicare Part B premium that is attributable to the shift of cost for some home health benefits from Part A to Part B, which raised the Part B premium. Payment for the Medicare premiums described are provided by 100 percent federal funds, which are provided as a capped annual grant. The number of QIs certified is limited by availability of these funds.

This action is necessary to comply with the mandatory requirement of Section 4732 of the Balanced Budget Act of 1997. It is anticipated that implementation of this emergency rule will be cost neutral.

Emergency Rule

Effective February 9, 1998, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4732 of the Balanced Budget Act of 1997 governing the payment of

Medicare Part B premiums for Qualifying Individuals. These provisions are effective for premiums payable beginning January 1, 1998 and ending with December 31, 2002. A capped allocation is available for each of the five years, beginning January 1998, for payment of premiums for the following two mandatory groups.

1) *Qualified Individuals-1 (QI-1s)*—individuals who are entitled to Part A of Medicare, with income above 120 percent, but less than 135 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to full payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

2) *Qualified Individuals-2 (QI-2s)*—individuals who are entitled to Part A of Medicare, with income at least 135 percent, but less than 175 percent of the federal poverty level. In addition, their resources cannot exceed twice the SSI limit and they cannot otherwise be eligible for Medicaid. Eligibility for Medicaid benefits is limited to partial payment of Medicare Part B premiums. The amount of the capped allocation limits the number of eligible individuals.

Once an individual is selected to receive assistance in a calendar month, he is entitled to receive assistance for the remainder of the calendar year, as long as the individual continues to meet QI criteria. However, the fact that an individual receives assistance at any time during the year does not necessarily entitle the individual to continued assistance for any succeeding year. For calendar years after 1998, the state shall give preference to individuals who were QIs, QMBs, SLMBs, or Qualified Disabled and Working Individuals (QDWIs) in the last month of the previous year and who continue to be or become QIs. Selection of QIs shall be on a first-come, first-served basis (in the order in which they apply).

Interested persons may submit written comments to Thomas D. Collins, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

Bobby P. Jindal
Secretary

9802#051

Rules

RULE

Department of Agriculture and Forestry Advisory Commission on Pesticides

Commercial Applicators; Pesticide Application,
Equipment and Salesperson; Agricultural Consultant;
Fees; Rinsate System; and Closed Containment System
(LAC 7:XXIII.Chapter 1)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides amends rules and regulations regarding certification of commercial applicators, pesticide salespersons, agricultural consultants, restrictions on applications of certain pesticides, rinsate systems, and closed containment systems. These amendments correct technical and typographical errors and clarify language and other housekeeping matters regarding the above-mentioned rules and regulations. These rules comply with and are enabled by R.S. 3:3203, R.S. 3:3242, R.S. 3:3246, and R.S. 3:3271.

No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

Subchapter F. Certification

§125. Certification of Commercial Applicators

A. The commissioner hereby establishes the following standards as qualifications required for certification:

1.a. - f. ...

2. An individual applying for certification in Category 7c (see §125.B.2) must have two years of experience in the phase of work in which he is making application. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

3. An individual applying for certification in Category 8d (see §125.B.2) must have either:

a. a bachelor's degree with at least 12 hours in entomology; or

b. at least four years of experience in mosquito control working under supervision of a person certified in Category 8d. Required experience must be substantiated by a notarized statement acceptable to the commissioner.

A.4. - B.2. ...

(Note: The classifications in this Subsection reflect national categories established by EPA.)

a. - d. ...

e. Aquatic Pest Control (Category 5). This category is subdivided into two subcategories:

i. Subcategory 5a includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding

applicators engaged in public health related activities included in Category 8 (§125.B.2.h);

ii. Subcategory 5b includes commercial applicators using, or supervising the use of, any restricted use pesticide containing Tributyltin (TBT) in paints to be applied to vessel hulls and other marine structures to inhibit the growth of aquatic organisms such as barnacles and algae.

f. ...

g. Industrial, Institutional, Structural, and Health Related Pest Control (Category 7). This category includes commercial applicators and nonfee commercial applicators using, or supervising the use of, pesticides with restricted uses in, on, or around food-handling establishments; human dwellings; institutions, such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures and adjacent area public or private; and for the protection of stored, processed or manufactured products. This category has been subdivided into four subcategories:

i. Subcategory 7a is for pest control operators who are, or will be, certified and licensed by the Structural Pest Control Commission. The commissioner hereby delegates to the Structural Pest Control Commission the authority to examine and certify all persons in this subcategory. The commissioner hereby delegates to the Structural Pest Control Commission the authority to enforce all federal and state laws and regulations as they apply to persons certified under this subcategory;

ii. ...

iii. Subcategory 7c is for applicators who apply, or supervise the application of, restricted use pesticides on a nonfee basis in, on, or around commercial grain elevators and other grain handling establishments, feed mills, flour mills, food processing plants, and other places where processed or unprocessed foods are stored, as the owner or in the employ of the owner. This subcategory is divided into three separate areas of certification:

(a). general pest control;

(b). vertebrate control;

(c). stored grain pest control.

B.2.g.iv. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:298 (September 1995), amended by the Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998).

§127. Certification of Pesticide Salespersons

A. Examinations for certification for pesticide salespersons will be given upon request of the applicant, in

Baton Rouge, at the Office of Pesticides and Environmental Programs, and at any district office of the department. Each person who has been certified as a pesticide salesperson, and whose certification has not been revoked or suspended, may renew that certification by attending a recertification meeting as designated by the commissioner. The commissioner shall issue a certification card to each pesticide salesperson. This card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form and the proper fee, as prescribed by the commissioner.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3244 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:298 (September 1995), amended by the Advisory Commission on Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998).

§129. Certification of Agricultural Consultants

A. - D.2.c.ii. ...

iii. Forest Weed Control. Making recommendations for the control of weeds and grasses in forest lands.

iv. Right-of-Way and Industrial Weed Control. Making recommendations for the control of weeds and grasses in and around industrial and commercial sites.

d.i. - iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3246 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 11:943 (October 1985), amended by the Advisory Commission on Pesticides, LR 24:281 (February 1998).

Subchapter G. Fees

§131. Fees

A. Fees required under pesticide statutes and these regulations are as follows:

1. Annual Registration of Pesticides \$300

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3244 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998).

Subchapter I. Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - A.3. ...

B. The following pesticides may not be applied by commercial applicators during the times set forth in this rule in the areas listed in §143.C, D and E hereof.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---

3. 3-chlorophenoxy-alpha-propionamide	3-CPA
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2-methoxy-3, 6-dichlorobenzoic acid	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy) butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic
12. Sodium arsenite	---
13. 2-(2,4,5-trichlorophenoxy) ethyl 2,2 dichloropropionate	---
14. Tris (2,4-dichlorophenoxy ethyl) phosphite	---
15. A mixture of tri-, tetra-, and polychlorobenzoic acid	---

C. - F. ...

G. No commercial applicator may make application of the following pesticides when the wind speed is at 10 miles per hour or above:

1. 3 ¹ 4 ¹ -Dichloropropionanilide	Propanil
2. 1:1-Dimethyl-4, 4 ¹ -Bipyridinium (cation) dichloride	Paraquat

H. - M.1. *Servitude* ...

2. Exemptions are hand held manual pump sprayers up to a maximum 3-gallon capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 21:668 (July 1995), LR 24:281 (February 1998).

Subchapter K. Mechanically Powered Pesticide Application Equipment

§159. Commercial Applicators

The following systems or controls must be present and in good operating order, prior to the issuance of a decal:

1. - 2.c. ...

d. The distance between the outermost nozzles on the boom of a fixed-wing aircraft shall not be more than 75 percent of the wing span of the aircraft. The boom on the rotary-wing aircraft may not exceed the rotor diameter. The commissioner may waive these requirements for specific aircraft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3243.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:198 (March

1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:281 (February 1998).

Subchapter S. Unused Portions of Pesticides and/or Rinsate of Pesticides Classified as Hazardous Wastes

§181. Constructive Recycling

A. - C. ...

D. In less than 90 days after the final application for the season of a pesticide which, upon disposal, is classified as a hazardous waste, the applicator must remove the contents of each containment tank; triple-rinse the containment tank by procedures equivalent to triple-rinsing; and apply such tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter T. Closed Containment Systems

§183. Closed Containment Systems of Commercial Applicators

A. Commercial applicators electing to install closed containment systems for a pesticide which, upon disposal, is classified as a hazardous waste must have such systems completed and operational on or before December 31, 1984. Following the effective date of this rule, any commercial applicator who is certified or licensed after January 1, who elects to install a closed containment system for a pesticide which, upon disposal, is classified as a hazardous waste must have such system completed and operational before the issuance of the certification or license.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:398 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter U. Surface Impoundments of Hazardous Wastes

§185. Surface Impoundments of Commercial Applicators: Management of Unused Portions of Pesticides and/or Rinsate of Pesticides

A. Unused portions of pesticides and/or rinsate resulting from the application of a pesticide which, upon disposal, is not classified as a hazardous waste should be handled by one of the following methods:

A.1. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Subchapter V. Surface Impoundments by Commercial Applicators

§187. Schedule for Implementation

A. - C. ...

D. Whenever violative levels of pesticides which, upon

disposal, are classified as hazardous waste are detected in any sample taken from a surface impoundment, whether the surface impoundment was in operation at the effective date of these regulations or installed after the effective date of these regulations, such surface impoundment may be immediately and permanently closed, and, if closed, all contents thereof shall be removed and disposed of at a permitted hazardous waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:399 (May 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 24:282 (February 1998).

Bob Odom
Commissioner

9802#013

RULE

**Department of Agriculture and Forestry
Office of the Commissioner**

Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised, White-Tailed Deer (LAC 7:XXI.1501-1523)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner hereby adopts regulations governing alternative livestock—imported exotic deer and imported antelope, elk and farm-raised, white-tailed deer. These rules comply with and are enabled by R.S. 3:3101 et seq.

The full text of these rules and regulations may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Bob Odom
Commissioner

9802#014

RULE

Board of Elementary and Secondary Education

Alternative Post-Baccalaureate Appeals Process (LAC 28:I.107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended LAC 28:I.107. This amendment will allow those persons who are enrolled in Alternate Post-Baccalaureate certification programs to participate in the appeals process.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 1. Organization

§107. Board Appeals Councils

A. Teacher Certification Appeals Council

1. - 2.b.iii ...

c. The appeals council, in the absence of mitigating circumstances, shall not be required to consider appeals of persons who:

- i. are nondegreed; or
- ii. lack the required NTE scores.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:359 (October 1978), amended LR 5:346 (November 1979), LR 15:962 (November 1989), LR 16:297 (April 1990), LR 24:283 (February 1998).

Weegie Peabody
Executive Director

9802#072

RULE

Board of Elementary and Secondary Education

Bulletin 746—Jobs for Louisiana
Graduates Specialist Certification

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 746 to add requirements for Certification for the Jobs for Louisiana's Graduates Job Specialist. The requirements, which are an addition to Bulletin 746, Part B, Louisiana Standards for State Certification of School Personnel, Vocational-Technical Personnel, Postsecondary, are printed below.

IV. Jobs for Louisiana's Graduates Job Specialist

A. Education/Experience:

1. a bachelor's degree from a state-approved and regionally accredited college or university, preferably in education, business administration, marketing, or related field and two years of full-time work experience, preferably in business, marketing, or related field; or

2. a high school diploma or General Equivalency Diploma (GED) and five years of full-time work experience, preferably in business, marketing, or related field. Exceptions to the number of required years of experience may be approved by the Board of Elementary and Secondary Education.

B. When the applicant has met the requirements listed under Items A.1 or 2, a one-year vocational-technical certificate will be issued. For renewal of this certificate, applicants with a high school diploma must earn at least three semester hours in professional vocational education each year until a minimum of 15 semester hours has been completed, at which time the vocational-technical certificate shall become

permanent. Applicants with a bachelor's degree shall earn nine semester hours on the same basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:283 (February 1998).

Weegie Peabody
Executive Director

9802#071

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional
Children's Act (LAC 28:I.909)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1706, regulations for implementation of the Exceptional Children's Act. The amendments clarify existing state regulations and make them more consistent with the federal regulations. Bulletin 1706 is referenced in LAC 28:I.909.E and was previously published in full as an emergency rule in the June 1997 issue of the *Louisiana Register*.

Title 28
EDUCATION

Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§909. Special Education Regulations

A. - E.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 4:337 (September 1978), amended LR 7:407, 484, 625 (August, October, December 1981), LR 8:63, 323 (February and July 1982), LR 9:130, 549, 835, 836 (March, August, December 1983), LR 10:7 (January 1984), LR 11:252 (March 1985), LR 12:763 (November 1986), LR 14:11, 609 (January, September 1988), LR 16:297 (April 1990), repromulgated LR 24:283 (February 1998).

**BULLETIN 1706—IMPLEMENTATION OF
THE EXCEPTIONAL CHILDREN'S ACT
(R.S. 17:1941 et seq.)**

(Editor's Note: The amended Bulletin 1706 published below does not use the *Louisiana Administrative Code* codification/format.)

§106. Opportunity of Hearing

The state board shall provide an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 45 CFR 100.b.401.d before the department disapproves any school system application for federal entitlement funds for special education under IDEA-Part B.

§130. State Advisory Council

A. The advisory council shall be appointed by the department with the approval of the State Board of Elementary and Secondary Education. Each board member shall recommend to the superintendent, one name to serve on

the advisory board from one of the membership categories to be chosen on the basis of lots drawn by board members as vacancies occur. Procedures shall follow existing state board procedures for appointing such councils.

B. Membership of the council will be composed of persons involved in or concerned with the education of children with disabilities and will include at least one person representing each of the following categories except for category six which shall have two representatives:

1. - 7. ...
8. representatives of advocate agencies for the disabled;
9. colleges and universities; and
10. vocational-technical schools.

C. The advisory council shall perform the following:

1. Advise the state board and the department of unmet needs in the education of exceptional students, including needs identified through study and analysis of the findings and decisions of the hearings.

2. Review and comment publicly on the state Special Education State Plan annual program plan and rules or regulations proposed for issuance by the state regarding the education of exceptional students and the procedures for distribution of funds under IDEA-Part B.

3. ...

4. Consider items referred by the state board as well as items initiated by the council and approved by the board through its regular procedures.

5. Make recommendations regarding the disbursement of certain special education discretionary funds.

§271. Out-of-District Placement

The department shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in another school system by mutual agreement.

§303. Approval of Out-of-District Placement

The office shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in another school system by mutual agreement.

§340. Review and Approval of Annual Applications of School Systems

A. - B. ...

C. The OSES shall establish a submission cycle for application of federal and/or state funds. At a minimum the annual application must meet submission requirements established in §488.B.

§402. Definitions

A. - B.3. ...

Comment: ...

1. - 2. ...

C. *Eligible Students*

1. Free appropriate public education must be available to all exceptional students reaching the age of 3 years, regardless of when the birthday occurs during the school year. At the discretion of the LEA and with parental approval, FAPE may be provided to an eligible student before age 3 years if his or her third birthday occurs during the school year.

2. ...

§412. Responsibilities of Child Search Coordinator

Each school system shall designate an individual/child search coordinator who shall be responsible for:

1. ensuring that the progress of referrals and evaluation activities required by §§411, 413-414, and 430-436 for each student suspected of being exceptional is tracked;

2. - 3. ...

§413. Students in a Regular Education Program

A. - C. ...

D. Pre-evaluation activities as listed in Bulletin 1508 under "Initial Responsibilities" of the evaluation coordinator must be conducted within 10 operational days after receipt of the referral by the pupil appraisal office for an individual evaluation.

§415. Students Out of School and/or Former Special Education Students

Students out of school, including students ages birth through 5 years who are suspected of having a disability and former special education students who have left a public school without completing their public education by obtaining a state diploma or certificate of achievement shall be referred to the school system's child search coordinator, who shall locate and offer enrollment in the appropriate public school program and refer them for an individual evaluation, if needed. Students may be enrolled with the development of an interim IEP based on their individual need, following the enrollment process in §416 below. If the Louisiana evaluation is current, students may be enrolled with the development of a review IEP within five operational days.

§416. Students with a Documented Severe or Low-Incidence Impairment; Students from Out-of-State; or Infants and Toddlers with Disabilities

A. Students with a Documented Severe or Low-Incidence Impairment. Students who have a severe or low-incidence impairment, documented by a qualified professional, shall be initially enrolled in a special education program concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. This enrollment process, from the initial entry into the school system to placement, shall occur within 10 operational days and will include the following steps:

1. a review of all available evaluation information by pupil appraisal personnel;

2. approval by the school system's special education administrator;

3. the development of an interim IEP in accordance with §§440-445;

4. formal parental approval for the temporary placement.

The duration of the completion of the evaluation and the interim placement shall not exceed the evaluation time lines specified in §436, with the initial IEP/placement document developed within 30 calendar days from the date of dissemination of the written evaluation report to the school system's special education administrator.

B. Students Transferring from Out-of-State. Students who have been receiving special education services in another state

may be initially enrolled in a special education program, on an interim IEP, concurrent with the conduct of the evaluation according to the requirements of Bulletin 1508. The enrollment process is the same as in §416.A.

Comment: If no mutually agreeable placement can be determined the district is not obligated to adopt the former IEP, or provide the former services, and placement should be in regular education pending the resolution of the placement dispute in accordance with the "stay-put" provisions in 34 CFR300.513(b).

C. **Infants and Toddlers with Disabilities.** Any infant or toddler moving to Louisiana who has an Individualized Family Service Plan (IFSP) will be referred to the local school system that is responsible for assisting the family in identifying and accessing family service coordination. During the conduct of the evaluation, which shall include a review of the existing evaluation, an interim IFSP may be developed to prevent a disruption in services. The enrollment process shall occur within 10 operational days from receipt of referral.

§418. Formal Parental Approval

A. ...

Comment: For specific evaluation procedures and protection of parental rights refer to Bulletin 1508 (Pupil Appraisal Handbook) and Part 500 of this Bulletin.

B. ...

§433. Evaluation Coordination

A. ...

B.1. - 4. ...

5. opportunity for oral explanation of educational rights and evaluation procedures.

§434. Evaluation Process

A. - C.1. ...

2. Tests and other evaluation procedures and materials shall be administered by trained personnel in conformance with the instructions provided by their producer and are as follows:

a. tailored to assess specific areas of developmental/educational need;

b. - g. ...

§440. Initial IEP/Placement Responsibilities

A. - E. ...

F. The IEP shall be developed using a format approved by the department.

G. - H. ...

§441. IEP Meeting Participants

* * *

A. ...

B. the student's teacher

Comment: When a regular education teacher calls for a reconvening of the individualized education program committee for any exceptional child assigned to his/her classroom on a full-time basis in which the IEP requires an adjustment in the curriculum, instruction, or services to be provided by the regular education teacher, this teacher shall participate on the IEP committee and will participate continuously thereafter for as long as the child is assigned to his/her classroom.

C. - G. ...

Comment: ...

1. a. - c. ...

2. ...

§443. Parental Approval of IEP/Placement

(Editor's Note: Wording in the section heading is amended.)

A. - E. ...

§445. Least Restrictive Environment

A. For each educational placement, the school system shall ensure that:

1. it is determined at least annually by a group of persons (including persons knowledgeable about the student and the placement alternatives) who consider carefully broad-based, documented information about the student;

2. it is based on an IEP/placement document;

3. the special education program in which each educational placement is made, including day or residential nonpublic schools, meets the standards of the state board;

4. a continuum of alternative educational settings shall be available to the extent necessary to implement the IEP/placement document for each student with disabilities. At a minimum, this continuum shall include (in order of restrictiveness as it applies to each student):

a. instruction in regular classes, including:

(1). supplemental aides and services to the student, and/or

(2). special education instruction;

b. instruction in special classes, all or part of the day;

c. special school, all or part of the day;

d. homebound;

e. instruction in hospitals and institutions;

Comment: Instruction may take place in other settings such as the community and job sites.

5. special class, separate schooling, or other removal of exceptional students from the regular educational environment occurs only when the nature or intensity of individual's needs are such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily;

Comment: Reasons for selecting a more restrictive environment may not be based solely on category of disability, severity of disability, availability of educational or related service, administrative convenience or special equipment.

6. exceptional students are educated with students who are not exceptional including students in public and private institutions or other care facilities served with IDEA funds, to the maximum extent appropriate. In making this decision, the following four areas must be considered:

a. physical integration—the student will share the same facilities with nondisabled students;

b. social integration—the student will participate in co-curricular and extra-curricular activities with nondisabled students;

c. academic integration—the student will participate in regular classroom activities; and

d. community integration—the student will participate in activities out in the community;

7. to the maximum extent appropriate any alternative placement selected for the student outside the general educational setting must provide opportunities for the student to interact with nondisabled peers;

8. nonacademic and extracurricular services and activities (may include counseling, recreational athletics, intramural and interscholastic athletic, transportation, health services, special interest groups or clubs sponsored by the

school system, referrals to agencies that provide assistance to individuals with disabilities, and employment of students by the school system and assistance in making outside employment available) must be offered in a way that allows equal opportunity for each exceptional student to participate in services and activities;

Comment: In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods and the services and activities listed above, each school system must ensure each student with a disability participates with nondisabled students in those services and activities to the maximum extent appropriate to the needs of the student.

9. physical education services, in accordance with the IEP/placement document, must be provided to students with disabilities in the regular physical education program or the adapted physical education program as specified in §904;

10. the least restrictive environment rules may not be waived by any party, including the parent(s).

B. If there is evidence that a school system or any participating agency makes placements that are not consistent with these regulations, the office shall:

1. review the school system's or participating agency's justification for its action; and

2. assist in developing and implementing the required corrective action.

C. Each completed IEP shall contain the following placement components:

1. an identification of the specific educational environment in which the student is to be placed. This placement must be the least restrictive educational environment, whether in existence or not, which can meet the student's individual educational needs, including necessary resources;

2. in making placement decisions, IEP committees must first consider the regular/general education class with the use of supplemental aids and services:

a. if a regular/general education class is not chosen as the least restrictive environment, IEP committees must examine each alternative setting (in order of restrictiveness) to determine appropriate placement;

b. if placement decision is not instruction in regular class/setting, the following must be provided:

(1) a description which includes evidence of specific constraints that prohibit accomplishment of IEP goals and objectives in the regular classroom;

(2) a description of educational benefits of the alternative setting; and

(3) a justification as to why less restrictive settings were rejected;

3. the following noted assurances must be provided when site determination decisions are made:

a. the placement is in the school which the student would attend if not exceptional unless the IEP of the student required some other arrangement. If the placement is not in the school the student would normally attend, the placement is as close as possible to the student's home;

b. the school and the class are chronologically age appropriate for the student. No student shall be placed in a setting which violates the maximal pupil/teacher ratio or the 3-year chronological age span;

c. the school/setting selected is accessible to the student for all school activities;

d. if the placement is other than regular/general education, the classroom is comparable to and integrated with regular classes.

Comment: Any deviation from these assurances must be documented and justified on the IEP. In selecting an alternative setting, the school system shall consider any potential harmful effect on the exceptional student or on the quality of services needed.

D. Various alternative placements shall be available to the extent necessary to implement the IEP/IFSP for each child with disabilities birth through age 5. The frequency and intensity of services are flexible and dependent upon the needs of the individual child and family.

1. instruction in the home;

2. instruction in a center/school;

a. regular preschool placements-Head Start, Title 1, kindergarten, child care center, 4-Year Old at Risk Program, Even Start, infant/toddler class;

b. self-contained-noncategorical preschool class, categorical preschool class, infant/toddler class;

3. instruction in a clinic/hospital;

4. combination - any combination of 1, 2, 3 above;

5. other (describe).

Comment: Children who are 3 - 5 years of age or are eligible for Part B services according to the LEA's policy on age of eligibility and who are identified with speech impairments only are entitled to be served in any of the above preschool settings. The setting for a child with speech impairments only must be determined by the needs of the child; the child may need communication intervention in settings with other children to meet his or her needs.

The school system must make available center school-based settings comparable in time to that of kindergarten age children if the child with a disability is kindergarten age. The pupil/teacher ratio established in Appendix I, Part B is used. The teacher providing the service must be certified in noncategorical preschool, early interventionist or in the area of exceptionality if the class is categorical. The frequency and intensity of services are flexible and dependent upon the needs of the individual child and family.

School systems that provide preschool programs for nondisabled preschool children must ensure that various alternative placements are available. School systems that do not operate programs for nondisabled preschool children are not required to initiate such programs solely to satisfy the requirements of LRE; however, for these school systems, some alternative methods for meeting the requirements of LRE include providing opportunities for the participation of preschool children with disabilities in other preschool programs operated by school systems, such as Head Start, placing children with disabilities in private school programs for nondisabled preschool children or private school preschool programs that integrate children with disabilities and nondisabled children, and locating classes for preschool children with disabilities in regular elementary schools. In each case, the school system must ensure that each child's placement is in the LRE in which the unique need of that child can be met, based on the child's IEP, and meets all IEP and LRE requirements.

Services to infants and toddlers with disabilities, to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate.

E. A continuum of alternative educational settings shall be available to the extent necessary to implement the IEP for each student who is gifted or talented. At a minimum, this continuum shall include (not in order of restrictiveness as it applies to each student):

1. regular classroom with supplemental aids/services;

2. resource with regular classroom;

3. self-contained; and
4. preschool.

F. The educational placement of deaf and (hard of hearing) students will be determined primarily by the provision of a free appropriate public education (FAPE) and the consideration of the least restrictive environment (LRE) will be of secondary consideration.

1. Full consideration of the unique needs of a deaf and hard of hearing student will ensure an appropriate education as required by the Individuals with Disabilities Education Act.

2. Factors that will be considered in developing an IEP for a deaf or hard of hearing student are:

- a. communication needs are the student's and family's preferred mode of communication;
- b. linguistic needs;
- c. severity of hearing loss and potential for using residual hearing;
- d. academic level;
- e. social, emotional and cultural needs including opportunities for peer interaction and communication;
- f. consideration of curriculum content and method of curriculum delivery.

G. A continuum of alternative educational settings shall be available to the extent necessary to the implementation of the IEP for each student who is deaf or hard of hearing. At a minimum, the continuum shall include (not in order of restrictiveness as it applies to each student):

1. homebound or hospital instruction;
2. special school, all or part of the day;
3. instruction in special classes, all or part of the day;
4. special education instruction in regular classes including:
 - a. service to or consultation with the regular classroom teacher; and/or
 - b. services to exceptional students within the regular classroom..

§446. Repealed/Reserved

§448. Hospital/Homebound Placement Rules

* * *

A. ...

B. Consistent with the requirements of these regulations, the student has been determined to be emotionally/behavior disordered or has serious behavior problems and either:

1. a psychologist or psychiatrist who is licensed to practice in Louisiana has certified in a signed written report that the student is admitted to a full-time inpatient program of care and treatment in a hospital certified or licensed by the state of Louisiana and that continued participation in the inpatient program is necessary to the proper care and treatment of the student; or

2. a certified school psychologist or a board-certified social worker or a psychologist or psychiatrist who is licensed to practice in Louisiana has verified in a signed written report submitted to the school system that the student's current educational placement is not appropriate and that there is a need for the student to be placed at home where he will be provided an appropriate educational program. Upon the receipt of this report:

a. - f. ...

C. - E. ...

§449. IEP/Placement Meeting(s) for Exceptional Students in Other School Systems or in Participating Nonpublic Schools

* * *

A. ...

1. Apply to the department for approval of placement out of the geographic attendance area of the school system or for a transfer of jurisdiction in accordance with §451.B. unless the placement is in another school system by mutual agreement.

2. - 3. ...

B. ...

§450. Direct Service Rules

School systems must provide service directly or through mutual agreements with other school systems in the alternative setting needed by an exceptional student if:

1. - 2. ...

§452. IEP/Placement Review Procedures

A. - 1. ...

2. The student's teacher

Comment: When a regular education teacher calls for a reconvening of the individualized education plan committee for any exceptional child assigned to his/her classroom on a full-time basis in which the IEP requires an adjustment to the curriculum, instruction or service to be provided by the regular education teacher, this teacher shall participate on the IEP committee and will participate continuously thereafter for as long as the child is assigned to his/her classroom.

3. - 4. ...

Comment: ...

5. Other individuals at the discretion of the parent(s) or school system as per §504.C.3.b.

6. ...

B. One IEP/placement review meeting must be conducted annually. More than one IEP/placement review meeting may be conducted at the discretion of the school system. If a parent makes a written request for an IEP/placement review meeting, the school system must respond in 10 calendar days in writing to that request and should reconvene the IEP committee if the request is reasonable. Other IEP/placement review meetings that must be conducted in addition to the required annual meetings are listed in Bulletin 1530.

C. - E. ...

§453. Change to Less Restrictive Environment

A. ...

B. Significant change in educational placement is defined as moving a student from one alternative setting to another which is more restrictive or which transfers jurisdiction: such a change requires a re-evaluation. A re-evaluation is not required to precede a placement change to a less restrictive environment occurring as a result of an IEP/placement document.

§459. Discipline Procedures

A. - B.5.a. ...

b. If a student brings a firearm (with an ability to fire a projectile) to school, the LEA may place the student in an interim alternative setting, in accordance with state law, for up to 45 calendar days. This can be done before determining

whether the behavior was a manifestation of the student's disability. However, the student's placement cannot be changed until the student's IEP team has been convened and determined the interim alternative placement to be appropriate. If a re-evaluation for a more restrictive placement is required, it must be conducted prior to or during the interim alternative placement. If the parent initiates a due process hearing, the student must remain in the alternative setting during the authorized review proceedings, unless the parent and the school system can agree on another placement.

Note: At each IEP meeting there must be a discussion of the social/behavioral needs of the student. This should include the following:

1. addressing any behavioral problem(s) of the student that are related to the disabling condition;
2. developing a structured program of behavior management (including goals and objectives) for dealing with the behavior; and
3. a review and determination of the effectiveness of any prior plan of behavior management.

§473. Functions

- A. - D. ...
- E. Repealed.

§488. Preparation of Application

A. In the preparation of an application required under IDEA-Part B, the first year of the submission cycle in accordance with §340.C the school system must complete the following:

1. - 10. ...
11. The school system shall provide a list of the organizations to which a distribution of the application is made upon submission of the application to the Office of Special Educational Services.

B. In preparation of the annual application in subsequent years the school system shall submit to the SDE the following assurances:

1. that 30 days prior to its submission the school system held at least one public hearing to provide opportunities for comments on the plan by the general public and;
2. adequate notice of the hearing was given stating the purpose, date, time, location, and provisions for receipt of written comments on the application

§491. Child Counting

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 child count, which will generate funds under IDEA. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA- Part B and H must be determined as specified in the SDE Monitoring Procedures, Bulletin 1922.

§492. Dissemination of Student and Parent Rights

* * *

Comment: Refer to §504.C.

§494. Repealed/Reserved

§496. Responsibilities for Placed Students

City/parish school systems shall enroll exceptional students currently enrolled in SSD Number 1 or state board special schools for provision of special education and related services in the least restrictive environment when the student is placed by SSD Number 1 or state board special schools. Such an exceptional student remains in the jurisdiction of SSD Number 1 or the state board special schools, which shall reimburse the city/parish school system for any costs for providing such services based on an interagency agreement. A city/parish system or SSD Number 1 which places students with severe or low-incidence disabilities in state board special schools must reimburse state board special schools for any costs for providing such services based on an interagency agreement. The school system which retains jurisdiction retains fiscal responsibility for funds not available to the other system from the state. A city/parish school system that disagrees with such a placement may, on an individual basis, apply to the state board for exemption from the state board from this obligation.

§503. Independent Educational Evaluation

* * *

Public Expense—the school system either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

Comment: To avoid unreasonable charges for Independent Educational Evaluations (IEEs) a school system may establish maximum allowable charges for specific tests. The maximum must be established so that it allows parents to choose among the qualified professionals in the area and only eliminates unreasonably excessive fees. The district must allow parents the opportunity to demonstrate unique circumstances to justify an IEE that falls outside the district's criteria.

- A. - D.2. ...

§508. Hearing Officer Appointment and Hearing Procedures

- A. ...
- B. Hearing Procedures

1. Hearing Officer Designation
 - a. The local supervisor must notify the SDE of the need to assign a hearing officer within one day of receipt of a request for a hearing. The hearing officer will be assigned within two calendar days by the SDE on a rational basis from the State Department of Education's approved list. Consideration will be given to the location of the hearing when making the assignment.

- b. After a hearing officer has been assigned by the SDE, the local supervisor must, within five calendar days, give the parent(s) written notice of the name of the proposed hearing officer.

- c. The parent and the school system, upon receiving notice of the assigned hearing officer, may disqualify (available only once) the person assigned. The parent must notify the parish supervisor of such a decision within three calendar days after receiving notice. The school system must notify the SDE of their decision of the parents' decision to disqualify the hearing officer within three calendar days after receiving notice.

d. If the parent or school system has reasonable doubt regarding the impartiality of a hearing officer, they must submit written information to the SDE within three calendar days of receipt of the notice of the assigned hearing officer. The SDE shall review any written challenge and:

(1) provide a written decision and notice to the parent and parish supervisor within five calendar days after receipt of the written challenge.

(2) ...

e. ...

2. Conduct of Hearing

a. - b. ...

c. The final hearing decision must be reached and a copy of the decision mailed to each party and the department not later than 45 calendar days after the receipt of the request for the hearing.

d. A hearing officer may grant specific extensions of time beyond the prescribed time requirements at the request of either party. When an extension is granted, the hearing officer shall reach a decision and mail copies to the parties and the department not later than 10 calendar days from the termination of the hearing.

e. - f. ...

§509. Review of Hearing Decision

A. ...

B. A written request to review the hearing decisions must be sent by certified mail to the SDE within 15 calendar days of receipt of the hearing decision. The request must state the basis upon which the review is requested.

C. ...

§511. Conduct of Review

A. Upon receiving a formal written request for a review, the SDE shall within 10 calendar days notify the review panel to evaluate the hearing decisions, the hearing record, and other appropriate information.

B. - E. ...

§514. Student Status During Proceedings

A. During the pendency of any administrative hearing or judicial proceeding pursuant to Part 500 Procedural Safeguards, the student involved must remain in the present educational placement unless the parent and the school system agree otherwise. Refer to §459.B.5(b).

B. ...

§517. Confidentiality of Information

* * *

A. - B. ...

C. Access Rights

1. Each school system shall permit parents to inspect and review educational records relating to their students which are collected, maintained or used by the agency under this Part. The school system shall comply with the request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the student, and in no case shall the time exceed 45 calendar days after the request is made. The school system shall not destroy any educational records if there is an outstanding request to inspect and review the records.

2. - 3. ...

D. - O. ...

§630. General Responsibilities

A.1. - 4. ...

5. the adherence to all procedural safeguards of Part 500.

B.6. ...

§685. Repealed/Reserved

§690. Instruction for Child Count

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 child count, which will generate funds under IDEA-B. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA- Part B and H must be determined as specified in the SDE Monitoring Procedures, Bulletin 1922.

§707. Enrollment (Admission and Release)

A. - A.1. ...

2. Students with disabilities shall not be admitted to a state board special school unless such students with disabilities are referred by a city/parish school system in compliance with the provisions of §440 and §443.D or in compliance with the provision of §716.

B. Release

1. - 2. ...

3. Prior to the release of any student placed in a state board special school through out-of-district placement procedures the department must review and approve each release.

C. - E. ...

§710. Repealed/Reserved

§711. Instructions for Child Count

A. Each school system shall use LANSER for the purpose of tracking students with disabilities. Data from this system shall be used to produce the annual child count, as of December 1, for the purpose of generating grant awards under IDEA-B and the Preschool Grants Program.

B. Each school system/state agency must determine the eligibility of each student for inclusion in the December 1 child count, which will generate funds under IDEA-B. It is the responsibility of the school system/state agency to verify that each eligible student is receiving the special education and related services stated on the Individualized Education Program or early intervention services, as stated on the Individualized Family Service Plan. Eligibility requirements for IDEA- Part B and H must be determined as specified in the SDE Monitoring Procedures, Bulletin 1922.

§716. Louisiana School for the Deaf Alternative Placement

A. In compliance with R.S. 17:348 and R.S. 17:1946.B(2) the Louisiana School for the Deaf (LSD) shall:

1. determine, not later than the second Monday in September of each year, the number of additional students who may be admitted under this placement option;

2. base the determination on the availability of all necessary resources required to provide a free appropriate public education.

B. - E. ...

§801. General Statement

The BESE has authorized the SDE, Office of Special Educational Services under R.S. 17:1941-1958 et seq., to enter into any agreement developed with another public or private agency, or agencies, where such an agreement is consistent with the regulations; is essential to the achievement of full compliance with the regulations; is designed to achieve or accelerate the achievement of the full educational goal for all exceptional students; and is necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state. Each school system and the SDE shall enter into all interagency agreements specified in the regulations by following all the requirements in this Part.

* * *

§830. Types of Interagency Agreements

SDE and SSD Number 1 shall have agreements with the Department of Health and Hospitals (DHH), Social Services (DSS), and the Department of Public Safety and Corrections (DPS and C), and/or other state agencies and their sub-offices where appropriate. Local educational agencies shall have those agreements whenever necessary for the provision of a free appropriate public education. The State School for the Deaf, State School for the Visually Impaired and the State Special Education Center now under the auspices of SSD Number 1 shall have interagency agreements with:

- 1) the LEA in whose geographic area they are located;
- 2) each LEA that places a student in the day programs of that facility;
- 3) regional state agencies;
- 4) habilitation agencies with whom they share students.

§860. Resolving Interagency Disputes

* * *

A. ...

B. Interagency disputes at the local, regional, or state level which involve either program or financial responsibility will be referred to the Children's Cabinet in the Office of the Governor.

C. If a dispute continues beyond these interventions, either party of the dispute may seek resolution from a court of competent authority.

D. Repealed.

§902. Abbreviations/Acronyms used in these Regulations

(Editor's Note: Codification letters [A. - M.] are being removed in this Section, however all definitions remain in effect, except for one repeal and one newly adopted definition, as shown below.)

* * *

Chapter 1 S.O.P.—Repealed.

* * *

DSS—Department of Social Services.

* * *

§904. Definitions

(Editor's Note: Definitions found in §904 through §1000 are moved alphabetically to §904 and remain in effect, except those being adopted or amended as shown below.)

* * *

Alternative Setting—any educational setting within the preschool, elementary, and secondary structure of the state specially designed for providing for the needs of the exceptional student. Each setting should meet the standards of the state board and be approved by the department.

Alternative to Regular Placement Program—a program of study for exceptional students in which students will address an approved alternative curriculum rather than content and performance standards. These students will be pursuing a certificate of achievement and will not participate in The Louisiana Educational Assessment Program.

* * *

Autism—a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affects a child's educational performance. The essential features include:

1. disturbance of development rates and sequences: Normal coordination of the three developmental pathways (motor, social-adaptive, cognitive) is disrupted. Delays, arrests, and/or regressions occur among or within one or more of the pathways.

2. disturbances of responses to sensory stimuli. There may be generalized hyper-reactivity or hypo-reactivity, and/or alternation of these two states over periods ranging from hours to months.

3. disturbances of speech, language-cognitive, and nonverbal communication.

4. disturbance of the capacity to relate appropriately to people, events, or objects. There is failure to develop appropriate responses to people and to assign appropriate symbolic meaning to objects or events.

5. associated features. Associated features vary with age and include other disturbances of thought, mood, and behavior. Mood may be labile: crying may be unexplained or inconsolable: there may be giggling or laughing without identifiable stimuli. There may be a lack of appreciation of real dangers such as moving vehicles as well as inappropriate fears. Self-injurious behavior, such a hair pulling and hitting or biting parts of the body, may be present. Stereotypic and repetitive movements of limbs or the entire body are common.

* * *

Certificate of Achievement—

1. - 5. ...

6. The student has completed 70 percent of his annual goals while enrolled in an alternative to regular education program.

7. - 8. ...

Certified IEP Time Unit—Repealed.

Child Search Coordinator—the school system employee who is responsible for the child search and child identification activities including that of locating the student.

Combination Self-Contained and Resource Classroom—an alternative education setting in which the same teacher

provides special education instruction for students who receive instruction in various special education settings. These settings include self contained, resource, and regular class.

* * *

Educational Assessment Services—include:

1. - 6. ...

* * *

Emotional/Behavioral Disorder—a disability characterized by behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance. Performance includes academic, social, vocational or personal skills. Such a disability is more than a temporary, expected response to stressful events in the environment; is consistently exhibited in two different settings; and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disabilities.

Evaluation—Repealed.

* * *

Exclusion—for a student with disabilities an exclusion occurs when he is separated from educational services including those on the IEP.

* * *

Generic Class—an instructional setting (self contained/resource) in which:

1. - 3. ...

4. The generic class meets the other requirement of the categorical self-contained or resource class.

* * *

Hearing Impairment—an auditory sensitivity (as measured by conventional behavioral audiological techniques or physiological measures, e.g., Auditory Brain Stem Response, etc.) so deficient as to significantly interfere with educational performance. It includes students who are deaf or hard of hearing or who have unilateral hearing loss or high frequency hearing loss.

* * *

Individualized Family Service Plan (IFSP)—a written plan for providing early intervention services for ChildNet eligible children and their families. The determination of the most appropriate early intervention services, including any modifications in placement, service delivery, service providers or early intervention services is accomplished through the development of the IFSP. The IFSP must:

1. be developed jointly by the family and appropriate qualified personnel, including family service coordinators involved in the provision of early intervention services;

2. be based on the multi-disciplinary evaluation and assessment of the child and family;

3. include the services necessary to enhance the development of the child and the capacity of the family to meet the special needs of their child;

4. continue until the child transitions out of early intervention, either to other appropriate service providers at age 3, at such time that the family and multi-disciplinary professionals determine that services are no longer necessary or the family no longer desires early intervention services.

5. identify the location of the early intervention services to be provided in natural environments, including the home and community settings, in which children without special needs would participate.

If there is a dispute between agencies regarding the development or the implementation of the IFSP, the lead agency is responsible for taking the necessary actions to resolve the dispute or assign responsibility for developing or implementing the IFSP.

Individual Transition Plan (ITP)—a document to record a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The IEP/ITP must be completed beginning no later than age 16, and at a younger age if determined appropriate.

* * *

Instruction in Regular Class—an alternative education setting for eligible exceptional students who receive special education and related services less than 21 percent of the school day outside the regular classroom.

* * *

Learning Disabilities—are severe and unique learning problems as a result of significant difficulties in the acquisition, organization, or expression of specific academic skills or concepts. These learning problems are typically manifested in school functioning as significantly poor performance in such areas as reading, writing, spelling, arithmetic reasoning or calculation, oral expression or comprehension, or the acquisition of basic concepts. The term includes such conditions as attention deficit disorder, perceptual handicaps or process disorders, minimal brain dysfunction, dyslexia, development aphasia, or sensorimotor dysfunction, when consistent with Bulletin 1508 criteria. The term does not include students who have learning problems which are primarily the result of visual, hearing, or motor impairments; of mental disabilities; of a behavior disorder; or of environmental, cultural, educational, or economic disadvantage.

* * *

Multi-Disciplinary Evaluation—an evaluation of a child, ages birth - 21 years, in all areas of suspected disability or exceptional ability through a systematic process of review, examination, interpretation, and analysis of screening data, developmental status, intervention efforts, interviews, observations, test results, as required, and other assessment information relative to the predetermined criteria. This evaluation is conducted by qualified examiners from two or more disciplines (e.g., educational diagnosticians, school psychologists, school social workers, speech pathologists). Additional assessment may be needed by service providers such as occupational therapists, physical therapists, and medical personnel, etc. The product of the evaluation is a professional interpretation of the child's abilities/performances, the nature and extent of the child's

impairment or exceptional ability, and the recommendations for types of services necessary to meet the needs of the child. Evaluation is not synonymous with testing. The ultimate goal of the individual process is to provide information to educators, service providers and families which will facilitate future developmental/educational programming for the child. The term means procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all children in a school, grade, class or program.

Multiple Disabilities—are concomitant impairments (such as mental disabilities-blindness, orthopedic impairment-deafness, autism-orthopedic impairments, or emotional/behavioral disorders-mental disabilities), the combination of which causes such severe educational problems that these pupils cannot be accommodated in special education programs solely for one of the impairments. The term does not include students with deaf-blindness nor may noncategorical preschool be used as one of the two impairments to classify for multiple disabilities.

* * *

Noncategorical Preschool—an exceptionality in which students 3 years through age 5, but not enrolled in a state approved kindergarten, are identified as having a disabling condition which is described, according to functional or developmental levels, as mild/moderate or severe/profound. Students with disabilities who will turn 3 during the school year may be also identified as Noncategorical Preschool.

Comment: Students who exhibit a severe sensorial impairment, severe physical impairment, speech impairment, severe language disorder, or who are suspected of having autism, or being gifted or talented shall be identified categorically.

* * *

Other Health Impairments—limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, ventilator assistance, or attention deficit disorder.

* * *

Para-Educator (teacher-aide)—a person who assists in the delivery of special educational services under the supervision of a special education teacher or other professional who has the responsibility for the delivery of special education services to exceptional students and who has all of the following qualifications:

- 1) is at least 20 years of age;
- 2) possesses a high school diploma or its equivalent; and
- 3) has taken a nationally validated achievement test and scored such as to demonstrate a level of achievement equivalent to the normal achievement level of a tenth grade student.

Para-Educator Training Unit—a setting that may be used for the self-help training (toilet training, dressing skills, grooming skills, feeding skills, and pre-academic readiness activities) students with severe or low incidence disabilities or preschool students. A school-aged unit may be made up of no more than six para-educators. A preschool unit may be made

up of no more than four para-educators. All units must be supervised directly by a certified special education teacher.

* * *

Resource Departmentalized Setting—an instructional setting in which students receive instruction from a special education teacher who teaches only a single content or subject matter area. The pupil teacher ratio shall be consistent with those listed in Part B of these regulations. Instruction is provided for not more than the maximum allowed for that exceptionality in a self contained class at any given period.

Resource Room—a type of alternative education setting for special education and related services designed or adapted as a location where exceptional students may receive all or a part of the special education required by their IEP, and in which all of the following exist:

1. - 2. ...
3. Instruction is provided for not more than 12 students whose exceptionalities are not severe or low incidence for any one hour of instructional time.
4. ...
5. Students receive special education and related services for at least 21 percent but no more than 60 percent of the school day outside the regular classroom.

School Building Level Committee—a committee of at least three school level staff members which may be identified as a SBLC, SAT, STAT, etc., at the discretion of the LEA. The committee must be comprised of at least the principal/designee, a classroom teacher, and the referring teacher. It is suggested that other persons be included, such as the guidance counselor, reading specialist, master teacher, nurse, parents, pupil appraisal personnel, etc. This committee is a problem-solving, decision-making group who meet on a scheduled basis to receive referrals from teachers, parents, or other professionals on individual students who are experiencing difficulty in school due to academic and/or behavior problems. In most instances, for enrolled students, it is only through the SBLC that a referral can be made to pupil appraisal for an individual evaluation.

School Health Services—services provided by a qualified school nurse or other qualified person. These services may include, but are not limited to, the following:

1. - 5. ...

* * *

Self-Contained Departmentalized—an instructional setting in which students receive instruction from more than one special education teacher. Pupil/teacher ratios shall be consistent with those listed in Part B of these regulations. Instruction is provided for not more than the maximum number allowed for that exceptionality in a self-contained class at any given period.

Self-Contained Special Education Class—a type of alternative education setting in which special education instruction and related services are provided outside the regular classroom more than 60 percent of the school day.

* * *

Specially Designed Regular Instruction Program—a program of study designed for exceptional students in which

students will address content and performance standards with significant variations allowed in time, methods and materials. These students will participate in the Louisiana Educational Assessment Program and will be working toward a high school diploma.

* * *

Speech Impairment—the basic communication system (whether oral, gestural, or graphic) evidences disorders or deviations in language, articulation, fluency or voice, which interfere with the student's educational performance or developmental functioning. Dialectal variations alone do not qualify a student to be classified with speech impairments.

* * *

Student Specific Aide—Repealed.

1. - 6. Repealed.

* * *

Supplemental Aids and Services—any modification to the regular educational program the IEP committee determines that the student needs to facilitate his/her placement in the regular educational environment.

Support Services—services provided to regular education students who are not suspected of being exceptional but who are experiencing difficulty in their educational performance. The purpose of support services is to investigate a student's instructional/behavioral needs based on classroom curricula demands. These services are not intended to include standardized assessment in which a student is compared to a national norm group. These services may be as follows:

1. *Direct Support Services*—services provided directly to a regular education student which may include but are not limited to, individualized interventions, curriculum-based assessment, and task analysis.

2. *Indirect Support Services*—services provided to the classroom teacher, a student's family, or to a whole class. These services could include, but are not limited to, home/school behavior modification program, discipline techniques, and teaching strategies.

* * *

§915. - §1000. Repealed. Reserved.

Part A. State Funding and Program Rules for Special Education

(Editor's Note: Part A. is being repealed in its entirety and repromulgated, using a new numbering system, I. - IV., as shown below.)

I. Cost of Determining a Minimum Foundation Program for Special Education. The Minimum Foundation Program (MFP) formula determines the cost of a minimum foundation program of education in all public elementary and secondary schools and helps to equitably allocate the funds to parish and city school systems. The MFP formula also recognizes increased costs for providing special education services by placing additional funding weights on special education students and transportation units. For specific fiscal and compliance issues refer to Bulletin 1947, Minimum Foundation Program Handbook.

II. Use of Special Education Personnel

A. Special education teachers, therapists, para-educators and special education supervisors shall be used to provide services only to those exceptional students needing special education and related services or in a program approved by the State Board of Elementary and Secondary Education.

B. Certified pupil appraisal personnel shall be used for the purpose of providing pupil assessment services provided in accordance with Part 400 of these regulations.

C. Each school system must be in compliance with the ratios described in Part B of these regulations.

III. Certification Requirements. Staff or school systems who provide special education and related services to exceptional students must currently meet all applicable Louisiana Standards for State Certification of School Personnel (Bulletin 746).

IV. Travel and Preparation Time

A. Each teacher providing instruction in an itinerant special education program shall be afforded adequate travel time and one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

B. Each teacher providing instruction in a resource room shall be afforded one instructional period per day for preparation and consultation with the student's regular teacher and other applicable school personnel.

Part B. Pupil/Teacher, Pupil/Speech/Language Pathologist, Pupil/Para-Educator and Pupil/Appraisal Ratios for Public Education

(Editor's Note: Part B.I. - IV. replaces the existing Part B, in its entirety.)

I. In providing services to all identified exceptional children, the number of students in each instructional setting shall not exceed the following numbers.

A.	Self-contained classroom	Pre-school	Elem.	Sec.
1.	Autism	4	4	4
2.	Emotional/Behavioral Disorders		8	8
3.	Blindness	7	9	9
4.	Deafness	7	9	9
	Deaf-Blindness	4	4	4
5.				
6.	Educationally Handicapped/Slow Learner		25	25
7.	Gifted		25	27
	a. Full day	19		
	b. Half day	23		
8.	Hard-of-Hearing	11	15	17
9.	Learning Disabilities		13	15
10.	Mental Disabilities			
	a. Mild		17	17
	b. Moderate		11	17
	c. Severe		9	9
	d. Profound		9	9
11.	Mild/Moderate (Generic)		16	16
12.	Multiple Disabilities	7	9	9

13.	Noncategorical Preschool			
	a. Mild/Moderate Functioning			
	1. Full day	11		
	2. Half day	16		
	b. Severe/Profound Functioning			
	1. Full day	7		
	2. Half day	14		
14.	Other Health Impairments		17	17
15.	Orthopedic Impairments	7	11	13
16.	Partial Seeing	11	15	17
17.	Severe Language Disorders	7	9	9
18.	Severe/Profound (Generic)		9	9
19.	Talented		25	27
20.	Traumatic Brain Injury	7	9	9

B. Para-educator Training Units. Preschool-Aged Students: One teacher and two para-educators for the initial six preschool students. For students functioning with the severe/profound range, there shall be one additional para-educator for any additional group of three not to exceed two additional groups of such students. For students functioning within the mild/moderate range, the additional para-educators shall be added for each additional group of four. The maximum number of students may not exceed 12.

School-Aged Students. One teacher and two para-educators for the initial six students with severe/profound or low incidence disabilities, provided that after the initial six there shall be one additional para-educator for any additional group of three, not to exceed four additional groups of such students. The maximum number of students may not exceed 18 per unit.

C. Resource Room (Generic or Categorical) and Itinerant Instruction Programs (per teacher)

1. Students with severe or low incidence impairments/disabilities 10
2. All other students with disabilities 27
3. Gifted or talented pupils 30

Comment: Because of the travel requirement of the program, this range may be reduced by the school system to 10-19 when instruction is provided to "all other students with disabilities" and "gifted or talented pupils" in at least two different schools.

D. Combination Classrooms

1. Students with severe/low incidence impairments/disabilities 12
2. All other students with disabilities 20
3. Gifted 22

E. Gifted or Talented Resource Center 55

F. Hospital/Homebound Instruction (per teacher)

1. Itinerant 10

2. One Site 17

G. Preschool Intervention Settings (parent/child training)

1. Intervention in the Home 15
2. Intervention in a School or Center 19

H. Adapted Physical Education Instruction (per teacher) 60

1. In caseloads exceeding 35 students, the total number of students identified as having a severe motor deficit shall not exceed 17.
2. Itinerant Instruction (two or more schools) 40

I. Instruction in Regular Classes

1. Students with severe or low incidence impairments/disabilities 9
2. All other students with disabilities 16

Comment: This ratio refers to the caseload of special education teachers who provide instruction for students with disabilities in general education settings.

J. Self Contained or Resource Departmentalized Setting

	Elem.	Sec.
--	-------	------

- | | | |
|---|----|----|
| 1. Autism | 15 | 15 |
| 2. Blindness | 33 | 33 |
| 3. Deafness | 33 | 33 |
| 4. Deaf-Blind | 15 | 15 |
| 5. Educationally Handicapped/Slow Learner | 93 | 93 |
| 6. Emotional/ Behavioral Disorders | 30 | 30 |
| 7. Gifted | 93 | 98 |
| 8. Hard of Hearing | 58 | 63 |
| 9. Learning Disabilities | 50 | 58 |
| 10. Mental Disabilities | | |
| a. Mild | 63 | 63 |
| b. Moderate | 43 | 63 |
| c. Severe | 33 | 33 |
| d. Profound | 33 | 33 |
| 11. Mild/Moderate Generic | 58 | 58 |
| 12. Multiple Disabilities | 33 | 33 |
| 13. Other Health Impairments | 63 | 63 |
| 14. Orthopedic Impairments | 43 | 45 |
| 15. Partial Seeing | 58 | 63 |
| 16. Severe Language Disorders | 33 | 33 |
| 17. Severe/Profound Generic | 33 | 33 |
| 18. Talented | 93 | 98 |
| 19. Traumatic Brain Injury | 33 | 33 |

II. Para-educators. Para-educators may be hired to meet the unique needs of students with exceptionalities.

III. Speech/language pathologists in school systems shall be employed at the rate of one for each 30 (or major fraction thereof) students receiving speech therapy. In determining the number of pupils, the following criteria specified in Bulletin 1508 shall be used.

1. Each student will receive speech therapy as specified in §984.

2. Each speech/language pathologist shall be assigned a minimum of one student in speech therapy and shall not be assigned more than 79 points.

3. Each hour per week of pupil appraisal assessment services and/or supervision of speech/language pathologists who hold restricted license and/or supervision of speech pathology assistants shall equal one point for the purpose of determining the caseload.

4. Assignment of these activities shall be made by the parish supervisor.

The caseload shall be determined according to the following:

Service Type	Number of Points Determining Caseload
Each hour of assessment	1
Each hour of supervision	1
Each hour of consultation	1
Each student receiving speech therapy	1

IV. Pupil appraisal members shall be employed by school systems at the following rate:

	Public School Ratios Based on Membership	NonPublic Ratios Based on Membership
Educational Diagnosticians	2,400 or major fraction thereof	1:3,500 or major fraction thereof
School Psychologists	2,400 or major fraction thereof	1:3,500 or major fraction thereof
Social Workers	3,200 or major function thereof	1:4,500 or major function thereof

Comment: School systems may substitute one pupil appraisal for another provided that all pupil appraisal services are provided in accordance with these regulations and Bulletin 1508.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941-1958.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education: LR 24:283 (February 1998).

Bulletin 1706 may be viewed in its entirety in the Office of the State Register, Capitol Annex, Room 512, 1051 North Third Street, Baton Rouge, LA; Office of Special Educational Services, Department of Education; or in the office of the Board of Elementary and Secondary Education, located on the first floor of the Education Building in Baton Rouge, LA.

Weegie Peabody
Executive Director

9802#070

RULE

Board of Elementary and Secondary Education

Bulletin 1934—Starting Points
Preschool Program (LAC 28:I.906)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended Bulletin 1934, Starting Points Preschool Program. The revision amends the Section under Eligibility Criteria and Eligibility Definitions. The qualifying rate for the Starting Points Preschool Program participants will increase from 75 percent to 85 percent of the state median income for families of the same size.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §906. Early Childhood Programs

* * *

B. Bulletin 1934, Starting Points Preschool Regulations is adopted, revised April 1995.

* * *

(See Prior Text)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:1221 (November 1995), amended LR 24:295 (February 1998).

Starting Points Preschool Program, Bulletin 1934

* * *

(See Prior Text)

Eligibility Criteria

In order to qualify for the Starting Points Preschool Program, participants must be:

1. ...
2. residing in a family whose mean income is no more than 85 percent of the state median income for a family of the same size;

* * *

(See Prior Text)

Eligibility Definitions

A. - E. ...

F. *Income*—basic income eligibility would be based on 85 percent of the state median income adjusted for family size. Earned income is used in determining eligibility.

* * *

(See Prior Text)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 21:1221 (November 1995), amended LR 24:295 (February 1998).

Weegie Peabody
Executive Director

9802#067

RULE

Board of Elementary and Secondary Education

Minimum Foundation Program (MFP)
Student Membership (LAC 28:I.1709)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the State Board of Elementary and Secondary Education amended the Minimum Foundation Program (MFP) student membership definition.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 17. Finance and Property**

§1709. Budget

A. - H. ...

I. MFP: Equalization Grant

1. ...

2. Student Membership. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish and city school system shall adhere to the following:

* * *

[See Prior Text 2.a-b.ii.(c)]

iii. Students who are in BESE and parish/city school system-approved alternative programs (schools), will be included in the base student count for membership.

* * *

[See Prior Text 2.b.iv- vi]

vii. Regular prekindergarten (4-year-old program) students will NOT be included in the base student count for membership.

viii. Private school students receiving services through the public school system will NOT be included in the base student membership.

*If October 1 falls on a Saturday, report membership on September 30. If October 1 falls on a Sunday, report membership on October 2.

3. Add-on Students/Units. For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to:

a. At-Risk Student Count shall be determined by the number of students whose family income is at or below income eligibility guidelines or other guidelines, as provided by BESE. The current guidelines include those students who have approved applications to participate in the federal free and reduced price lunch program. The count is determined by the number of approved applications for the free and reduced price lunch program during the month of October, as reported in the Student Information System (SIS).

b. Vocational Education Unit Count shall be determined by the number of Secondary Vocational Education courses per student, as reported by the school districts through the Annual School Report for the prior year.

c. Special Education. Other Exceptionalities Student Count shall be determined by the number of special education students identified as having "other exceptionalities" in the LANSER database as of October 1 including:

i. infants and toddlers ages 0-2, who are currently receiving services; and

ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who are receiving services from the local school district only (students serviced by SSD Number 1 and certain correctional facilities are excluded).

d. Special Education. Gifted and Talented Student Count shall be determined by the number of special education students identified in the LANSER database as of October 1, which includes both public and nonpublic special education students ages 3-21 identified as gifted and talented, as defined by R.S. 17:1943, who are receiving services from the local public school district only.

e. Economy of Scale Student Count shall be determined by the number of students in the base student count, as defined in LAC 28:I.1709.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:22, R.S. 17:2006, R.S. 39:41-62, R.S. 39:454, R.S. 39:461.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:398, 541 (September, December 1975), amended LR 3:404 (October 1977), LR 14:789, 790 (November 1988), LR 16:297 (April 1990), LR 24:296 (February 1998).

Weegie Peabody
Executive Director

9802#068

RULE

Board of Elementary and Secondary Education

State Content Standards
(LAC 28:I.930)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted State Content Standards in the following areas: Bulletin 1955, Mathematics Framework; Bulletin 1962, Science Framework; Bulletin 1963, The Arts Contents Standards; Bulletin 1964, Social Studies Content Standards; Bulletin 1965, English Language Arts Content Standards; and Bulletin 1966, Foreign Language Content Standards.

The content standards will be referenced in the *Louisiana Administrative Code* as follows:

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans**

Subchapter A. Bulletins and Regulations

§930. State Content Standards

A. Bulletin 1955—Mathematics Framework

1. Bulletin 1955, Standards for Mathematics Framework in Louisiana Schools is adopted.

2. This bulletin contains standards and benchmarks to be used by Local Agencies (LEAs) as a basis for curriculum

design. These standards and benchmarks define what Louisiana students should know and be able to do.

B. Bulletin 1962—Science Framework

1. Bulletin 1962, Standards for Science Framework in Louisiana Schools is adopted.

2. This bulletin contains standards and benchmarks to be used by Local Agencies (LEAs) as a basis for curriculum design. These standards and benchmarks define what Louisiana students should know and be able to do.

C. Bulletin 1963—Arts Content Standards

1. Bulletin 1963, Standards for Arts Content in Louisiana Schools is adopted.

2. This bulletin contains standards and benchmarks to be used by Local Agencies (LEAs) as a basis for curriculum design. These standards and benchmarks define what Louisiana students should know and be able to do.

D. Bulletin 1964—Social Studies Content Standards

1. Bulletin 1964, Standards for Social Studies in Louisiana Schools is adopted.

2. This bulletin contains standards and benchmarks to be used by Local Agencies (LEAs) as a basis for curriculum design. These standards and benchmarks define what Louisiana students should know and be able to do.

E. Bulletin 1965—English Language Arts Content Standards

1. Bulletin 1965, Standards for English Language Arts in Louisiana Schools is adopted.

2. This bulletin contains standards and benchmarks to be used by Local Agencies (LEAs) as a basis for curriculum design. These standards and benchmarks define what Louisiana students should know and be able to do.

F. Bulletin 1966—Foreign Language Content Standards

1. Bulletin 1966, Standards for Foreign Language in Louisiana Schools is adopted.

2. This bulletin contains standards and benchmarks to be used by Local Agencies (LEAs) as a basis for curriculum design. These standards and benchmarks define what Louisiana students should know and be able to do.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:296 (February 1998).

The content standards, in the areas of mathematics, science, arts, social studies, English language arts, and foreign language, were published and disseminated to all Louisiana public schools, regional service centers, and area school superintendents. A complete set of the content standards may be viewed in the Office of the State Register, 1051 North Third Street, Baton Rouge; the Office of the State Board of Elementary and Secondary Education; or the Bureau of Pupil Accountability, State Department of Education.

Weegie Peabody
Executive Director

9802#073

RULE

Board of Elementary and Secondary Education

Vo-Tech Attendance Policy (LAC 28:I.1523)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended the attendance policy for the technical colleges.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 15. Vocational and Vocational-Technical Education

Subchapter B. Vocational-Technical Education

§1523. Students

A. ...

B. Attendance Policy. College enrollment assumes maturity, seriousness of purpose, and self-discipline for meeting the responsibilities associated with the courses for which a student registers. The primary mission of the Louisiana Technical College System is to prepare individuals for employment. Success in education and employment is dependent upon preparation and regular attendance. Recommendation to employers for job placement will depend on technical and academic preparation, as well as regular attendance. Students are expected to attend all classes. No class cuts are authorized. If an absence occurs, it is the responsibility of the student to make up all work missed. Students who do not officially drop or withdraw within the prescribed dates for this action or who discontinue attendance will receive an "F" in the course or courses. Under no circumstances will an absence, for any reason, excuse the student from completing all work assigned in a given course. After an absence, it is the student's responsibility to check with the instructor about the completion of missed assignments. Any student who accumulates excessive absences (10 percent of the total classes in a course within a term) which are unexcused, may be suspended from that class for the remainder of the term and result in a grade of "F" for the class. (Details of excused absences, etc. to be determined at the school level.) This policy shall be superseded by any more stringent attendance policy required by a regulatory or license body.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)(11), R.S. 17:1997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 3:404 (October 1977), amended LR 4:240 (July 1978); LR 6:650 (November 1980), LR 8:323 (July 1982), LR 9:209 (April 1983), LR 10:7, 200 (January, March 1984), LR 11:617, 1065, 1138 (June, November, December 1985), LR 12:14, 92, 667, 830 (January, February, October, December 1986), LR 13:84, 160 (February, March 1987), LR 14:11, 12, 409, 704, 790 (January, July, October, November 1988), LR 16:297 (April 1990), LR 24:297 (February 1998).

Weegie Peabody
Executive Director

9802#069

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Control of Emission of Organic Compounds
(LAC 33:III.2117)(AQ149)**

(Editor's Note: A portion of the following rule, which appeared on pages 20 through 26 of the January 20, 1998 Louisiana Register, is being republished to correct a typographical error.)

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2117. Exemptions

The following compounds are considered exempt from the control requirements of this Chapter: methane; ethane; 1, 1, 1 trichloroethane (methyl chloroform); methylene chloride (dichloromethane); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); 1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); acetone; parachlorobenzotrifluoride (PCBTF); perchloroethylene (tetrachloroethylene); cyclic, branched, or linear completely methylated siloxanes; 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC)-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoropropane (HFC-236fa); 1,1,2,2,3-pentafluoropropane (HFC-245ca); 1,1,2,3,3-pentafluoropropane (HFC-245ea); 1,1,1,2,3-pentafluoropropane (HFC-245eb); 1,1,1,3,3-pentafluoropropane (HFC-245fa); 1,1,1,2,3,3-hexafluoropropane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃); 1-ethoxy-1,1,2,2,3,3,4,4-nonafluorobutane (C₄F₉OC₂H₅); and 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅). The following classes of perfluorocarbons are also considered exempt from the control requirements of this Chapter: cyclic, branched, or linear, completely fluorinated alkanes; cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and sulfur containing perfluorocarbons with

no unsaturations and with sulfur bonds only to carbon and fluorine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 24:298 (February 1998).

Gus Von Bodungen
Assistant Secretary

9802#085

RULE

**Department of Environmental Quality
Office of Waste Services**

**RCRA Updates (LAC 33:V.Chapters 1,
5, 22, 38, 40, and 49) (HW060*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 5, 22, 38, 40, and 49 (HW060*).

This rule is identical to federal law or regulation, 59 FR 38536-38545, 7/28/94; 59 FR 43496-43500, 8/24/94; 59 FR 47982-48110, 9/19/94; 60 FR 242-302, 1/3/95; 60 FR 17001-17004, 4/4/95; 60 FR 25492-25551, 5/11/95; and 60 FR 33912-33915, 6/29/95, which is applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the rule. Therefore, the rule is promulgated in accordance with R.S. 49:953(F)(3) and (4). This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This rule is an update of LAC 33:V.Chapters 1, 5, 22, 38, 40, and 49, to make these regulations equivalent to the federal regulations and complete the requirement needed to become authorized for RCRA V (Universal Waste Rules). The basis and rationale for this rule are to update existing regulations and to incorporate additional federal regulations concerning RCRA V authorization to make Louisiana's regulations equivalent to the federal regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions §105. Program Scope

These rules and regulations apply to owners and operators

of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.33.b]

c. nonwastewater residues, such as slag, resulting from high-temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, in units identified as (1) rotary kilns, (2) flame reactors, (3) electric furnaces, (4) plasma arc furnaces, (5) slag reactors, (6) rotary hearth furnace/electric furnace combinations, (7) industrial furnaces (as defined in LAC 33:V.109), that are disposed of in subtitle D units (as defined in 40 CFR parts 257 and 258), provided that these residues meet the generic exclusion levels identified in the tables in this Paragraph for all constituents and exhibit no characteristics of hazardous waste.

i. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving, by clear and convincing evidence, that the residue meets all of the exclusion requirements.

Generic Exclusion Levels for F006 Nonwastewater HTMR Residues	
Antimony	0.10
Arsenic	0.050
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

ii. A one-time notification and certification must be placed in the facility's files and sent to the administrative authority for K061, K062, or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generators' or treaters' files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater needs only to notify the EPA region or an authorized state on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31. The notification must include the following information:

- (a). the name and address of the subtitle D unit (as defined in 40 CFR parts 257 and 258) receiving the waste shipment;
- (b). the EPA hazardous waste number and treatability group at the initial point of generation;
- (c). the treatment standards applicable to the waste at the initial point of generation; and
- (d). the certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

d. biological treatment sludge from the treatment of one of the following wastes listed in LAC 33:V.4901.C organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), and wastewaters from the production of

Constituent	Maximum for Any Single Composite Sample-TCLP (mg/l)
Generic Exclusion Levels for K061 and K062 Nonwastewater HTMR Residues	
Antimony	0.10
Arsenic	0.050
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157).

* * *

[See Prior Text in D.34-G]

H. General Procedures to Petition the Administrative Authority. The procedure that must be followed to petition for rulemaking can be found in LAC 33:I.Chapter 9 and other applicable chapters in this Subpart.

* * *

[See Prior Text in I-M.10]

N. Petitions to Amend LAC 33:V.Chapter 38 to Include Additional Hazardous Wastes

1. Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of LAC 33:V.Chapter 38 may petition for a regulatory amendment under LAC 33:I.Chapter 9 and LAC 33:V.Chapter 38.

2. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that regulation under the universal waste regulations of LAC 33:V.Chapter 38:

- a. is appropriate for the waste or category of waste;
- b. will improve management practices for the waste or category of waste; and
- c. will improve implementation of the hazardous waste program.

3. The petition must include the information required by LAC 33:I.Chapter 9. The petition should also address as many of the factors listed in LAC 33:V.3883 as are appropriate for the waste or category of waste addressed in the petition.

4. The administrative authority will grant or deny a petition using the factors listed in LAC 33:V.3883. The decision will be based on the weight of evidence showing that regulation under LAC 33:V.3883 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

5. The administrative authority may request additional information needed to evaluate the merits of the petition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 24:298 (February 1998).

Chapter 5. Permit Application Contents

Subchapter A. General Requirements for Permit Applications

§501. Permit Application

* * *

[See Prior Text in A-C.1.b]

2. The owner and operator of an existing hazardous waste management facility may be required to submit Part II of their permit application. The administrative authority may require submission of Part II. Any owner or operator shall be allowed at least 120 days from the date of request to submit Part II of the application. Any owner or operator of an existing hazardous waste management facility may voluntarily submit Part II of the application at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste management facility must submit a Part II permit application in accordance with the dates specified in LAC 33:V.4305. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a RCRA permit must submit a Part II application in accordance with the dates specified in LAC 33:V.4305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A-G.4.b]

c. at the point of generation the injected wastes include D001 High TOC subcategory wastes or D012-D017 pesticide wastes that are prohibited under LAC 33:V.2269 and those wastes have been treated to meet the treatment standards of LAC 33:V.Chapter 22.Table 2 before injection.

* * *

[See Prior Text in H-I.5.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998).

§2227. Treatment Standards Expressed as Specified Technologies: Procedures for Approval of Alternative Treatments

A. The wastes specified in Subsection A.1-3 of this Section and in Table 2 of this Chapter, for which standards are expressed as a treatment method rather than a concentration level, must be treated using the technology or technologies specified in Subsection A.1-3 of this Section and in Table 2 of this Chapter.

* * *

[See Prior Text in A.1-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998).

Table 2 - TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name	CAS ² Number	Concentration mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code
* * *					
[See Prior Text in D001 - D043]					
F001 F002 F003 F004 F005	F001, F002, F003, F004 and/or F005 solvent wastes that contain any combination of one or more of the following spent solvents: acetone, benzene, n-butyl alcohol, carbon disulfide, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, o-cresol, m-cresol, p-cresol, cyclohexanone, o-dichlorobenzene, 2-ethoxyethanol, ethyl acetate, ethyl benzene, ethyl ether, isobutyl alcohol, methanol, methylene chloride, methyl ethyl ketone, methyl isobutyl ketone, nitrobenzene, 2-nitropropane, pyridine, tetrachloroethylene, toluene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, trichloroethylene, trichloromonofluoromethane, and/or xylenes (except as specifically noted in other subcategories). See further details of these listings in LAC 33:V.4901.B.Table 1.	Acetone	67-64-1	0.28	160
		Benzene	71-43-2	0.14	10
		n-Butyl alcohol	71-36-3	5.6	2.6
		Carbon disulfide	75-15-0	3.8	NA
		Carbon tetrachloride	56-23-5	0.057	6.0
		Chlorobenzene	108-90-7	0.057	6.0
		o-Cresol	95-48-7	0.11	5.6
		m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
		p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
			Cresol-mixed isomers (Cresylic acid) (sum of o-, m-, and p-cresol concentrations)	1319-77-3	0.88
	Cyclohexanone	108-94-1	0.36	NA	
	o-Dichlorobenzene	95-50-1	0.088	6.0	
	Ethyl acetate	141-78-6	0.34	33	
	Ethyl benzene	100-41-4	0.057	10	
	Ethyl ether	60-29-7	0.12	160	
	Isobutyl alcohol	78-83-1	5.6	170	
	Methanol	67-56-1	5.6	NA	
	Methylene chloride	75-9-2	0.089	30	
	Methyl ethyl ketone	78-93-3	0.28	36	
	Methyl isobutyl ketone	108-10-1	0.14	33	
	Nitrobenzene	98-95-3	0.068	14	

		Pyridine	110-86-1	0.014	16
		Tetrachloroethylene	127-18-4	0.056	6.0
		Toluene	108-88-3	0.080	10
		1,1,1-Trichloroethane	71-55-6	0.054	6.0
		1,1,2-Trichloroethane	79-00-5	0.054	6.0
		1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	0.057	30
		Trichloroethylene	79-01-6	0.054	6.0
		Trichloromonofluoromethane	75-69-4	0.020	30
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations)	1330-20-7	0.32	30
	F003 and/or F005 solvent wastes that contain any combination of one or more of the following three solvents as the only listed F001-5 solvents: carbon disulfide, cyclohexanone, and/or methanol (formerly LAC 33:V.2225.C).	Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
		Cyclohexanone	108-94-1	0.36	0.75 mg/l TCLP
		Methanol	67-56-1	5.6	0.75 mg/l TCLP
	F005 solvent waste containing 2-Nitropropane as the only listed F001-5 solvent.	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
	F005 solvent waste containing 2-Ethoxyethanol as the only listed F001-5 solvent.	2-Ethoxyethanol	110-80-5	BIODG; or CMBST	CMBST
* * *					
[See Prior Text in F006 - F028]					
F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes, from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in LAC 33.V.4901.C or LAC 33:V.4901.B.Table 1).	All F024 wastes	NA	CMBST	CMBST
		2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
		3-Chloropropylene	107-05-1	0.036	30
		1,1-Dichloroethane	75-34-3	0.059	6.0
		1,2-Dichloroethane	107-06-2	0.21	6.0
		1,2-Dichloropropane	78-87-5	0.85	18
		cis-1,3-Dichloropropylene	10061-01-5	0.036	18
		trans-1,3-Dichloropropylene	10061-02-6	0.036	18
		bis(2-Ethylhexyl) phthalate	117-81-7	0.28	28
		Hexachloroethane	67-72-1	0.055	30
		Chromium (Total)	7440-47-3	2.77	0.86 mg/l TCLP
		Nickel	7440-02-0	3.98	5.0 mg/l TCLP
* * *					
[See Prior Text in F025 - K024]					
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	NA	NA	LLEXT fb SSTRP fb CARBN; or CMBST	CMBST
K026	Stripping still tails from the production of methyl ethyl pyridines.	NA	NA	CMBST	CMBST
K027	Centrifuge and distillation residues from toluene diisocyanate production.	NA	NA	CARBAN; or CMBST	CMBST
* * *					
[See Prior Text in K028 - K038]					

K039	Filter cake from the filtration of diethylphosphorodithioc acid in the production of phorate.	NA	NA	CARBN; or CMBST	CMBST
*** [See Prior Text in K040 - K106]					
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K109	Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
*** [See Prior Text in K111]					
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CMBST; or CHOXD fb CARBN; or BIODG fb CARBN	CMBST
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; or CMBST	CMBST
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	NA	NA	CARBN; or CMBST	CMBST
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene.	Nickel	7440-02-0	3.98	5.0 mg/l TCLP
		NA	NA	CARBN; or CMBST	CMBST
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine.	NA	NA	CARBN; or CMBST	CMBST
*** [See Prior Text in K117 - K118]					
K123	Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST

K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts.	NA	NA	CMBST; or CHOXD fb (BIODG or CARBN)	CMBST
*** [See Prior Text in K131 -K151]					
P001	Warfarin, and salts, when present at concentrations greater than 0.3 percent	Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P002	1-Acetyl-2-thiourea	1-Acetyl-2-thiourea	591-08-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P003 - P004]					
P005	Allyl alcohol	Allyl alcohol	107-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P006	Aluminum phosphide	Aluminum phosphide	20859-73-8	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
P007	5-Aminomethyl 3-isoxazolol	5-Aminomethyl 3-isoxazolol	2763-96-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P008	4-Aminopyridine	4-Aminopyridine	504-24-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P009	Ammonium picrate	Ammonium picrate	131-74-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P010 - P013]					
P014	Thiophenol (Benzene thiol)	Thiophenol (Benzene thiol)	108-98-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P015	Beryllium Dust	Beryllium	7440-41-7	RMETL; or RTHRM	RMETL; or RTHRM
P016	Dichloromethyl ether (Bis(chloromethyl)ether)	Dichloromethyl ether	542-88-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P017	Bromoacetone	Bromoacetone	598-31-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P018	Brucine	Brucine	357-57-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

*** [See Prior Text in P020 - P021]					
P022	Carbon disulfide	Carbon disulfide	75-15-0	3.8	CMBST
		Carbon disulfide; alternate ⁶ standard for nonwastewaters only	75-15-0	NA	4.8 mg/l TCLP
P023	Chloroacetaldehyde	Chloroacetaldehyde	107-20-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P024]					
P026	1-(o-Chlorophenyl)thiourea	1-(o-Chlorophenyl) thiourea	5344-82-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P027	3-Chloropropionitrile	3-Chloropropionitrile	542-76-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P028	Benzyl chloride	Benzyl chloride	100-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P029 - P030]					
P031	Cyanogen	Cyanogen	460-19-5	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P033	Cyanogen chloride	Cyanogen chloride	506-77-4	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
P034	2-Cyclohexyl-4,6-dinitrophenol	2-Cyclohexyl-4,6-dinitrophenol	131-89-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P036 - P039]					
P040	O,O-Diethyl O-pyrazinyl phosphorothioate	O,O-Diethyl O-pyrazinyl phosphorothioate	297-97-2	CARBN; or CMBST	CMBST
P041	Diethyl-p-nitrophenyl phosphate	Diethyl-p-nitrophenyl phosphate	311-45-5	CARBN; or CMBST	CMBST
P042	Epinephrine	Epinephrine	51-43-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P043	Diisopropylfluorophosphate (DFP)	Diisopropylfluorophosphate (DFP)	55-91-4	CARBN; or CMBST	CMBST
P044	Dimethoate	Dimethoate	60-51-5	CARBN; or CMBST	CMBST
P045	Thiofanox	Thiofanox	39196-18-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P046	alpha, alpha-Dimethylphenethylamine	alpha, alpha-Dimethylphenethyl-amine	122-09-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

P047	4,6-Dinitro-o-cresol	4,6-Dinitro-o-cresol	543-52-1	0.28	160
	4,6-Dinitro-o-cresol salts	NA	NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P048]					
P049	Dithiobiuret	Dithiobiuret	541-53-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P050	Endosulfan	Endosulfan I	939-98-8	0.023	0.066
		Endosulfan II	33213-6-5	0.029	0.13
		Endosulfan sulfate	1031-07-8	0.029	0.13
*** [See Prior Text in P051]					
P054	Aziridine	Aziridine	151-56-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P056]					
P057	Fluoroacetamide	Fluoroacetamide	640-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P058	Fluoroacetic acid, sodium salt	Fluoroacetic acid, sodium salt	62-74-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P059 - P060]					
P062	Hexaethyl tetraphosphate	Hexaethyl tetraphosphate	757-58-4	CARBN; or CMBST	CMBST
*** [See Prior Text in P063]					
P064	Isocyanic acid, ethyl ester	Isocyanic acid, ethyl ester	624-83-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P065]					
P066	Methomyl	Methomyl	16752-77-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P067	2-Methyl-aziridine	2-Methyl-aziridine	75-55-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P068	Methyl hydrazine	Methyl hydrazine	60-34-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED, or CMBST

P069	2-Methylacetonitrile	2-Methylacetonitrile	75-86-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P070	Aldicarb	Aldicarb	116-06-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P071]					
P072	1-Naphthyl-2-thiourea	1-Naphthyl-2-thiourea	86-88-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P073 - P074]					
P075	Nicotine and salts	Nicotine and salts	54-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P076 - P078]					
P081	Nitroglycerin	Nitroglycerin	55-63-0	CHOXD; CHRED; CARBN; BIODG or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P082]					
P084	N-Nitrosomethylvinylamine	N-Nitrosomethyl-vinylamine	4549-40-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P085	Octamethylpyrophosphoramidate	Octamethylpyrophosphoramidate	152-16-9	CARBN; or CMBST	CMBST
*** [See Prior Text in P087]					
P088	Endothall	Endothall	145-73-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P089 - P092]					
P093	Phenylthiourea	Phenylthiourea	103-85-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P094]					
P095	Phosgene	Phosgene	75-44-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P096	Phosphine	Phosphine	7803-51-2	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P097 - P101]					

P102	Propargyl alcohol	Propargyl alcohol	107-19-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P103 - P104]					
P105	Sodium azide	Sodium azide	26628-22-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P106]					
P108	Strychnine and salts	Strychnine and salts	57-24-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P109	Tetraethyldithiopyrophosphate	Tetraethyldithiopyrophosphate	3689-24-5	CARBN; or CMBST	CMBST
*** [See Prior Text in P110]					
P111	Tetraethylpyrophosphate	Tetraethylpyrophosphate	107-49-3	CARBN; or CMBST	CMBST
P112	Tetranitromethane	Tetranitromethane	509-14-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P113 - P115]					
P116	Thiosemicarbazide	Thiosemicarbazide	79-19-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
P118	Trichloromethanethiol	Trichloromethane-thiol	75-70-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in P119 - P121]					
P122	Zinc phosphide Zn ₃ P ₂ , when present at concentrations greater than 10 percent	Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in P123]					
U001	Acetaldehyde	Acetaldehyde	75-07-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U002]					
U003	Acetonitrile	Acetonitrile	75-05-8	5.6	CMBST
		Acetonitrile; alternate ⁶ standard for nonwastewaters only	75-05-8	NA	38
*** [See Prior Text in U004 - U005]					

U006	Acetyl chloride	Acetyl Chloride	75-36-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U007	Acrylamide	Acrylamide	79-06-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U008	Acrylic acid	Acrylic acid	79-10-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U009]					
U010	Mitomycin C	Mitomycin C	50-07-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U011	Amitrole	Amitrole	61-82-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U012]					
U014	Auramine	Auramine	492-80-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U015	Azaserine	Azaserine	115-02-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U016	Benz(c)acridine	Benz(c)acridine	225-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U017	Benzal chloride	Benzal chloride	98-87-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U018 - U019]					
U020	Benzenesulfonyl chloride	Benzenesulfonyl chloride	98-09-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U021	Benzidine	Benzidine	92-87-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U022]					
U023	Benzotrichloride	Benzotrichloride	98-07-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U024 - U025]					

U026	Chlornaphazine	Chlornaphazine	494-03-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U027	bis(2-Chloroisopropyl)ether	bis(2-Chloroisopropyl)ether	39638-32-9	0.055	7.2
*** [See Prior Text in U028 - U032]					
U033	Carbon oxyfluoride	Carbon oxyfluoride	353-50-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U034	Trichloroacetaldehyde (Chloral)	Trichloroacetaldehyde (Chloral)	75-87-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U035	Chlorambucil	Chlorambucil	305-03-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U036 - U037]					
U038	Chlorobenzilate	Chlorobenzilate	510-15-6	0.10	CMBST
*** [See Prior Text in U039]					
U041	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U042	2-Chloroethyl vinyl ether	2-Chloroethyl vinyl ether	110-75-8	0.062	CMBST
*** [See Prior Text in U043 - U045]					
U046	Chloromethyl methyl ether	Chloromethyl methyl ether	107-30-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U047 - U048]					
U049	4-Chloro-o-toluidine hydrochloride	4-Chloro-o-toluidine hydrochloride	3165-93-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U050 - U052]					
U053	Crotonaldehyde	Crotonaldehyde	4170-30-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U055	Cumene	Cumene	98-82-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U056	Cyclohexane	Cyclohexane	110-82-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U057]					
U058	Cyclophosphamide	Cyclophosphamide	50-18-0	CARBN; or CMBST	CMBST

U059	Daunomycin	Daunomycin	20830-81-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U060 - U061]					
U062	Diallate	Diallate	2303-16-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U063]					
U064	Dibenz(a,i)pyrene	Dibenz(a,i)pyrene	189-55-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U066 - U072]					
U073	3,3'-Dichlorobenzidine	3,3'-Dichloro-benzidine	91-94-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U074	1,4-Dichloro-2-butene	cis-1,4-Dichloro-2-butene	1476-11-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		trans-1,4-Dichloro-2-butene	764-41-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U075 - U084]					
U085	1,2:3,4-Diepoxybutane	1,2:3,4-Diepoxybutane	1464-53-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U086	N,N'-Diethylhydrazine	N,N'-Diethylhydrazine	1615-80-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U087	O,O-Diethyl S-methyldithiophosphate	O,O-Diethyl S-methyldithiophosphate	3288-58-2	CARBN; or CMBST	CMBST
*** [See Prior Text in U088]					
U089	Diethyl stilbestrol	Diethyl stilbestrol	56-53-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U090	Dihydrosafrole	Dihydrosafrole	94-58-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U091	3,3'-Dimethoxybenzidine	3,3'-Dimethoxy-benzidine	119-90-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U092	Dimethylamine	Dimethylamine	124-40-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U093	p-Dimethylaminoazobenzene	p-Dimethylamino-azobenzene	60-11-7	0.13	CMBST
U094	7,12-Dimethylbenz(a)anthracene	7,12-Dimethylbenz(a)anthracene	57-97-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U095	3,3'-Dimethylbenzidine	3,3'-Dimethyl-benzidine	119-93-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U096	alpha, alpha-Dimethyl benzyl hydroperoxide	alpha, alpha-Dimethyl benzyl hydroperoxide	80-15-9	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U097	Dimethylcarbamoyl chloride	Dimethylcarbamoyl chloride	79-44-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U098	1,1-Dimethylhydrazine	1,1-Dimethyl-hydrazine	57-14-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
U099	1,2-Dimethylhydrazine	1,2-Dimethylhydra-zine	540-73-8	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U101 - U102]					
U103	Dimethyl sulfate	Dimethyl sulfate	77-78-1	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U105 - U107]					
U108	1,4-Dioxane	1,4-Dioxane	123-91-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		1,4-Dioxane; alternate ⁶ standard for nonwastewaters only	123-91-1	NA	170
U109	1,2-Diphenylhydrazine	1,2-Diphenylhydrazine	122-66-7	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
		1,2-Diphenylhydrazine; alternate ⁶ standard for wastewaters only	122-66-7	0.087	NA
U110	Dipropylamine	Dipropylamine	142-84-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U111 - U112]					
U113	Ethyl acrylate	Ethyl acrylate	140-88-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U114	Ethylenebisdithiocarbamic acid salts and esters	Ethylenebisdithio-carbamic acid	111-54-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U115	Ethylene oxide	Ethylene oxide	75-21-8	(WETOX or CHOXD) fb CARBN; or CMBST	CHOXD; or CMBST
		Ethylene oxide; alternate ⁶ standard for wastewaters only	75-21-8	0.12	NA
U116	Ethylene thiourea	Ethylene thiourea	96-45-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U117 - U118]					
U119	Ethyl methane sulfonate	Ethyl methane sulfonate	62-50-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U120 - U121]					
U122	Formaldehyde	Formaldehyde	50-00-0	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U123	Formic acid	Formic acid	64-18-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U124	Furan	Furan	110-00-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U125	Furfural	Furfural	98-01-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U126	Glycidylaldehyde	Glycidylaldehyde	765-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U127 - U131]					
U132	Hexachlorophene	Hexachlorophene	70-30-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U133	Hydrazine	Hydrazine	302-01-2	CHOXD; CHRED; CARBN; DIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U134]					
U135	Hydrogen Sulfide	Hydrogen Sulfide	7783-06-4	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U136 - U142]					

U143	Lasiocarpine	Lasiocarpine	303-34-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U144 - U146]					
U147	Maleic anhydride	Maleic anhydride	108-31-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U148	Maleic hydrazide	Maleic hydrazide	123-33-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U149	Malononitrile	Malononitrile	109-77-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U150	Melphalan	Melphalan	148-82-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U151 - U152]					
U153	Methanethiol	Methanethiol	74-93-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U154	Methanol	Methanol	67-56-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Methanol; alternate ⁶ set of standards for both wastewaters and nonwastewaters	67-56-1	5.6	0.75 mg/l TCLP
*** [See Prior Text in U155]					
U156	Methyl chlorocarbonate	Methyl chlorocarbonate	79-22-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U157 - U159]					
U160	Methyl ethyl ketone peroxide	Methyl ethyl ketone peroxide	1338-23-4	CHOXD; CHRED; CARBN; BIODG; or CMBST	CHOXD; CHRED; or CMBST
*** [See Prior Text in U161 - U162]					
U163	N-Methyl N'-nitro N-nitrosoguanidine	N-Methyl N'-nitro N-nitrosoguanidine	70-25-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U164	Methylthiouracil	Methylthiouracil	56-04-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U165]					

U166	1,4-Naphthoquinone	1,4-Naphthoquinone	130-15-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U167	1-Naphthlyamine	1-Naphthlyamine	134-32-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U168	2-Naphthlyamine	2-Naphthlyamine	91-59-8	0.52	CMBST
*** [See Prior Text in U169 - U170]					
U171	2-Nitropropane	2-Nitropropane	79-46-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U172]					
U173	N-Nitrosodiethanolamine	N-Nitrosodiethanol-amine	1116-54-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U174]					
U176	N-Nitroso-N-ethylurea	N-Nitroso-N-ethylurea	759-73-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U177	N-Nitroso-N-methylurea	N-Nitroso-N-methylurea	684-93-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U178	N-Nitroso-N-methylurethane	N-Nitroso-N-methylurethane	615-53-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U179 - U181]					
U182	Paraldehyde	Paraldehyde	123-63-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U183]					
U184	Pentachloroethane	Pentachloroethane	76-01-7	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
		Pentachloroethane; alternate ⁶ standards for both wastewaters and nonwastewaters	76-01-7	0.055	6.0
*** [See Prior Text in U185]					
U186	1,3-Pentadiene	1,3-Pentadiene	504-60-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U187 - U188]					

U189	Phosphorus sulfide	Phosphorus sulfide	1314-80-3	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST
U190	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	100-21-0	0.055	28
		Phthalic anhydride (measured as Phthalic acid or Terephthalic acid)	85-44-9	0.055	28
U191	2-Picoline	2-Picoline	109-06-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U192]					
U193	1,3-Propane sultone	1,3-Propane sultone	1120-71-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U194	n-Propylamine	n-Propylamine	107-10-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U196]					
U197	p-Benzoquinone	p-Benzoquinone	106-51-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U200	Reserpine	Reserpine	50-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U201	Resorcinol	Resorcinol	108-46-3	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U202	Saccharin and salts	Saccharin	81-07-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U203 - U205]					
U206	Streptozotocin	Streptozotocin	18883-66-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U207 - U211]					
U213	Tetrahydrofuran	Tetrahydrofuran	109-99-9	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U214 - U217]					
U218	Thioacetamide	Thioacetamide	62-55-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST

U219	Thiourea	Thiourea	62-56-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U220]					
U221	Toluenediamine	Toluenediamine	25376-45-8	CARBN; or CMBST	CMBST
U222	o-Toluidine hydrochloride	o-Toluidine hydrochloride	636-21-5	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U223	Toluene diisocyanate	Toluene diisocyanate	26471-62-5	CARBN; or CMBST	CMBST
*** [See Prior Text in U225 - U228]					
U234	1,3,5-Trinitrobenzene	1,3,5-Trinitrobenzene	99-35-4	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U235]					
U236	Trypan Blue	Trypan Blue	72-57-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U237	Uracil mustard	Uracil mustard	66-75-1	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U238	Urethane (Ethyl carbamate)	Urethane (Ethyl carbamate)	51-79-6	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U239]					
U240	2,4-D (2,4-Dichlorophenoxyacetic acid)	2,4-D (2,4-Dichlorophenoxyacetic acid)	94-75-7	0.72	10
	2,4-D (2,4-Dichlorophenoxyacetic acid) salts and esters		NA	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
*** [See Prior Text in U243]					
U244	Thiram	Thiram	137-26-8	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U246	Cyanogen bromide	Cyanogen bromide	506-68-3	CHOXD; WETOX; or CMBST	CHOXD; WETOX; or CMBST
*** [See Prior Text in U247]					
U248	Warfarin, and salts, when present at concentrations of 0.3 percent or less	Warfarin	81-81-2	(WETOX or CHOXD) fb CARBN; or CMBST	CMBST
U249	Zinc phosphide, Zn ₃ P ₂ , when present at concentrations of 10 percent or less	Zinc Phosphide	1314-84-7	CHOXD; CHRED; or CMBST	CHOXD; CHRED; or CMBST

U328	o-Toluidine	o-Toluidine	95-53-4	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U353	p-Toluidine	p-Toluidine	106-49-0	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST
U359	2-Ethoxyethanol	2-Ethoxyethanol	110-80-5	CMBST; or CHOXD fb (BIODG or CARBN); or BIODG fb CARBN	CMBST

[See Prior Text in Footnotes 1-7]

Note: NA means not applicable.

Table 3. Technology Codes and Description of Technology-Based Standards	
Technology Code	Description of Technology-Based Standard
	*** [See Prior Text in ADGAS - CHRED]
CMBST	High temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of LAC 33:V.Chapter 30 or 31 or 41, and in other units operated in accordance with applicable technical operating requirements; and certain noncombustive technologies, such as the Catalytic Extraction Process.
	*** [See Prior Text in DEACT -WTRRX]

[See Prior Text in Note 1-Certification Statement G]

Chapter 31. Incinerators

§3105. Applicability

[See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
A2213	Ethanimidothioic acid,2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester	30558-43-1	U394
	*** [See Prior Text in Acetonitrile - Aldicarb]		
Aldicarb sulfone	Propanal, 2-methyl-2-(methylsulfonyl)-, O-[(methylamino) carbonyl] oxime	1646-88-4	P203

[See Prior Text in Aldrin - Azaserine]

Barban	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester	101-27-9	U280
Bendiocarb	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate	22781-23-3	U278
Benomyl	Carbamic acid, [1-[(butylamino) carbonyl]-1H-benzimidazol-2-yl] -, methyl ester	17804-35-2	U271
	*** [See Prior Text in Benz(c)acridine - Calcium cyanide]		
Carbaryl	1-Naphthalenol, methylcarbamate	63-25-2	U279
Carbendazim	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester	10605-21-7	U372
Carbofuran	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate	1563-66-2	P127
Carbofuran phenol	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-	1563-38-8	U367
	*** [See Prior Text in Carbon disulfide - Carbon tetrachloride]		
Carbosulfan	Carbamic acid, [(dibutylamino) thio] methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester	55285-14-8	P189
	*** [See Prior Text in Chloral - Crotonaldehyde]		
m-Cumenyl methylcarbamate	Phenol, 3-(methylethyl)-, methyl carbamate	64-00-6	P202

[See Prior Text in Cyanides (soluble salts and complexes), N.O.S. ¹ - Diethylarsine]			
Diethylene glycol, dicarbamate	Ethanol, 2,2'-oxybis-, dicarbamate	5952-26-1	U395

[See Prior Text in 1,4-Diethyleneoxide - Dimethyl sulfate]			
Dimetilan	Carbamic acid, dimethyl-, 1-[(dimethylamino) carbonyl]-5-methyl-1H-pyrazol-3-yl ester	644-64-4	P191

[See Prior Text in Dinitrobenzene, N.O.S. ¹ - Formaldehyde]			
Formetanate hydrchloride	Methanimidamide N,N-dimethyl-N'-[3-[(methylamino) carbonyl]oxy] phenyl]-, monohydrochloride	23422-53-9	P198

[See Prior Text in Formic acid]			
Formparanate	Methanimidamide N,N-dimethyl-N'-[2-methyl-4-[(methylamino) carbonyl]oxy] phenyl]-	17702-57-7	P197

[See Prior Text in Glycidylaldehyde - Isodrin]			
Isolan	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester	119-38-0	P192

[See Prior Text in Isosafrole-Malononitrile]			
Manganese dimethyldithiocarbamate	Manganese, bis(dimethyl-carbamodithioato-S,S')	15339-36-3	P196

[See Prior Text in Melphalan - Methapyrilene]			
Methiocarb	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate	2032-65-7	P199

[See Prior Text in Methomyl - Methylthiouracil]			
Metolcarb	Carbamic acid, methyl-, 3-methylphenyl ester	1129-41-5	P190

Mexacarbate	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)	315-18-4	P128

[See Prior Text in Mitomycin C - Osmium tetroxide]			
Oxamyl	Ethanimidothioic acid, 2-(dimethylamino)-N-[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester	23135-22-0	P194

[See Prior Text in Paraldehyde - Phthalic anhydride]			
Physostigmine	Pyrrolo[2,3-b]indol-5-01, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-	57-47-6	P204
Physostigmine salicylate	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis) -1, 2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo [2,3-b]indol-5-yl methylcarbamate ester (1:1)	57-64-7	P188

[See Prior Text in 2-Picoline - Potassium silver cyanide]			
Promecarb	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate	2631-37-0	P201

[See Prior Text in Pronamide - Propargyl alcohol]			
Propham	Carbamic acid, phenyl-, 1-methylethyl ester	122-42-9	U373
Propoxur	Phenol, 2-(1-methylethoxy)-, methylcarbamate	114-26-1	U411

[See Prior Text in Propylene dichloride - Propylthiouracil]			
Prosulfocarb	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester	52888-80-9	U387

[See Prior Text in Pyridine - Thioacetamide]			
Thiodicarb	Ethanimidothioic acid, N,N'-[thiobis [(methylimino) carbonyloxy]] bis-, dimethyl ester	59669-26-0	U410

* * *			
[See Prior Text in Thiofanox - Thiomethanol]			
Thiophanate-methyl	Carbamic acid,[1, 2-phenylenebis (imino-carbonothioyl)] bis-, dimethyl ester	23564-05-8	U409
* * *			
[See Prior Text in Thiophenol - Thiram]			
Tirpate	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino) carbonyl] oxime	26419-73-8	P185
* * *			
[See Prior Text in Toluene -Toxaphene]			
Triallate	Carbamothioic acid, bis (1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester	2303-17-5	U389
* * *			
[See Prior Text in 1,2,4-Trichlorobenzene - 1,2,3-Trichloropropane]			
Triethylamine	Ethanamine, N,N-diethyl-	121-44-8	U404
* * *			
[See Prior Text in O,O,O-Triethyl phosphorothioate - Zinc phosphide]			
Ziram	Zinc, bis(dimethyl-carbamodithioato-S, S')-, (T-4)-	137-30-4	P205

¹The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998).

Chapter 38. Universal Wastes

Subchapter G. Petitions to Include Other Wastes Under This Chapter

§3881. General

A. Any person seeking to add a hazardous waste or a category of hazardous waste to this Chapter may petition for a regulatory amendment under this Subpart and LAC 33:I.Chapter 9.

B. To be successful, the petitioner must demonstrate to the satisfaction of the administrative authority that regulation under the universal waste regulations in this Chapter:

1. is appropriate for the waste or category of waste;
2. will improve management practices for the waste or category of waste; and

3. will improve implementation of the hazardous waste program.

C. The petition must include the information required by LAC 33:I.Chapter 9. The petition should also address as many of the factors listed in LAC 33:V.3883 as are appropriate for the waste or waste category addressed in the petition.

D. The administrative authority will evaluate and grant or deny petitions using the factors listed in LAC 33:V.3883. The decision will be based on the weight of evidence showing that regulation under this Chapter is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:320 (February 1998).

§3883. Factors for Petitions to Include Other Wastes Under This Chapter

Factors for petitions to include other waste under this Chapter include:

1. the waste or category of waste, as generated by a wide variety of generators, is listed in LAC 33:V.4901 or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in LAC 33:V.4903. When a characteristic waste is added to the universal waste regulations of this Chapter by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in LAC 33:V.3813 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries). Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this Chapter;

2. the waste or category of waste is not exclusive to a specific industry or group of industries and is commonly generated by a wide variety of types of establishments including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, and government organizations, as well as large industrial facilities;

3. the waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

4. systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

5. the risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to LAC 33:V.3821, 3843, and 3863 and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

6. regulation of the waste or category of waste under this Chapter will increase the likelihood that the waste will be

diverted from nonhazardous waste management systems (e.g., the municipal waste stream, nonhazardous industrial or commercial waste stream, municipal sewer, or stormwater systems) to recycling, treatment, or disposal in compliance with subtitle C of RCRA;

7. regulation of the waste or category of waste under this Chapter will improve implementation of and compliance with the hazardous waste regulatory program; and/or

8. such other factors as may be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:320 (February 1998).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

[See Prior Text in A-B.3.b.iv]

C. Hazardous wastes from specific sources are listed in Table 2.

Table 2. Hazardous Wastes from Specific Sources		
Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste
*** [See Prior Text]		
K151	(T)	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups.
K156	(T)	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K157	(T)	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K158	(T)	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)
K159	(T)	Organics from the treatment of thiocarbamate wastes.
K161	(R,T)	Purification solids (including filtration, evaporation, and centrifugation solids), bag house dust, and floor sweepings from the production of dithiocarbamate acids and their salts. (This listing does not include K125-K126.)

Inorganic Chemicals		
K071	(T)	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used
*** [See Prior Text]		

[See Prior Text in D-E.Comment]

Table 3. Acute Hazardous Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
*** [See Prior Text]		
P070	116-06-3	Aldicarb
P203	1646-88-4	Aldicarb sulfone
P004	309-00-2	Aldrin
*** [See Prior Text]		
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P001	'81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts, when present at concentrations greater than 0.3 percent
*** [See Prior Text]		
P021	592-01-8	Calcium cyanide Ca(CN) ₂
P189	55285-14-8	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1- (1-methylethyl)-1H-pyrazol-5-yl ester
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P127	1563-66-2	Carbofuran
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P189	55285-14-8	Carbosulfan
P023	107-20-0	Chloroacetaldehyde

* * *		
[See Prior Text]		
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate
P030		Cyanides (soluble cyanide salts), not otherwise specified
* * *		
[See Prior Text]		
P046	122-09-8	alpha, alpha-Dimethylphenethylamine
P191	644-64-4	Dimetilan
P047	1534-52-1	4,6-Dinitro-o-cresol, and salts
* * *		
[See Prior Text]		
P049	541-53-7	Dithiobiuret
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2, 4-dimethyl-, O-[(methylamino)-carbonyl]oxime
P050	115-29-7	Endosulfan
* * *		
[See Prior Text]		
P031	460-19-5	Ethanedinitrile
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
* * *		
[See Prior Text]		
P058	62-74-8	Fluoroacetic acid, sodium salt
P198	23422-53-9	Formetanate hydrochloride
P197	17702-57-7	Formparanate
P065	628-86-4	Fulminic acid, mercury (2+) salt (R,T)
* * *		
[See Prior Text]		
P060	465-73-6	Isodrin
P192	119-38-0	Isolan
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P007	2763-96-4	3 (2H)-Isoxazolone, 5-(aminomethyl)-
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-
P196	15339-36-3	Manganese, dimethyldithiocarbamate
P092	62-38-4	Mercury, (acetato-O)phenyl-
* * *		
[See Prior Text]		

P118	75-70-7	Methanethiol, trichloro-
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)-cabonyl]oxy]pehnyl]-monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)cabonyl]oxy]pehnyl]-
P050	115-29-7	6, 9-Methano-2,4, 3-benzo-dioxathiepin, 6,7,8,9,10,10-hexachloro-1, 5,5a,6,9,9a- hexahydro-,3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7, 8,8-heptachloro-3a, 4,7,7a-tetrahydro-
P199	2032-65-7	Methiocarb
P066	16752-77-5	Methomyl
* * *		
[See Prior Text]		
P071	298-00-0	Methyl parathion
P190	1129-41-5	Metolcarb
P128	315-8-4	Mexacarbate
P072	86-88-4	alpha-Naphthylthiourea
* * *		
[See Prior Text]		
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2, 3-dicarboxylic acid
P194	23135-22-0	Oxamyl
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P048	51-28-5	Phenol, 2,4-dinitro-
P047	1534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
* * *		
[See Prior Text]		
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate
P110	78-00-2	Plumbane, tetraethyl-

*** [See Prior Text]		
P099	506-61-6	Potassium silver cyanide
P201	2631-37-0	Promecarb
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
*** [See Prior Text]		
P075	¹ 54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (s)- and salts
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P114	12039-52-0	Selenious acid, dithallium(1+) salt
*** [See Prior Text]		
P093	103-85-5	Thiourea, phenyl-
P185	26419-73-8	Tirpate
P123	8001-35-2	Toxaphene
*** [See Prior Text]		
P001	¹ 81-81-2	Warfarin, and salts, when present at concentrations greater than 0.3 percent
P205	137-30-4	Zinc, bis(dimethyl-carbamodithioato-S,S')-
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN) ₂
P122	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations greater than 10 percent (R,T)
P205	137-30-4	Ziram

¹CAS Number given for parent compound only.

F. Commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.3903, 3913, and 3915.A and C. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

Table 4. Toxic Wastes		
EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
U394	30558-43-1	A2213
U001	75-07-0	Acetaldehyde (I)
*** [See Prior Text]		
U010	50-07-7	Azirino [2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b,-hexahydro-8a-methoxy-5-methyl-, [1aS-(1aalpha,8beta,8aalpha,8balpha)]-
U280	101-27-9	Barban
U278	22781-23-3	Bendiocarb
U364	22961-82-6	Bendiocarb phenol
U271	17804-35-2	Benomyl
U157	56-49-5	Benz [j] aceanthrylene, 1,2-dihydro-3-methyl-
*** [See Prior Text]		
U202	¹ 81-07-2	1,2-Benzisothiazol-3 (2H)-one, 1,1,-dioxide, and salts
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U064	189-55-9	Benzo[<i>rst</i>]pentaphene
*** [See Prior Text]		
U032	13765-19-0	Calcium chromate
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester

U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
*** [See Prior Text]		
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl)ester
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U279	63-25-2	Carbaryl
U372	10605-21-7	Carbendazim
U367	1563-38-8	Carbofuran phenol
U215	6533-73-9	Carbonic acid, dithallium (1+) salt
*** [See Prior Text]		
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U395	5952-26-1	Diethylene glycol, dicarbamate
U108	123-91-1	1,4-Diethylenoxide
*** [See Prior Text]		
U001	75-07-0	Ethanal (I)
U404	121-44-8	Ethanamine, N,N-diethyl-
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
*** [See Prior Text]		
U227	79-00-5	Ethane, 1,1,2-trichloro-
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thiobis(methylimino) carbonyloxy]]bis-, dimethyl ester
U359	110-80-5	Ethanol,2-ethoxy-
U173	1116-54-7	Ethanol,2,2'-(nitrosoimino)bis-
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U004	98-86-2	Ethanone, 1-phenyl-
*** [See Prior Text]		

U236	72-57-1	2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl-[1,1'-biphenyl]-4,4'-diyl) bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U279	63-25-2	1-Naphthalenol, methylcarbamate
U166	130-15-4	1,4-Naphthoquinone
*** [See Prior Text]		
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U170	100-02-7	Phenol, 4-nitro-
*** [See Prior Text]		
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U373	122-42-9	Propham
U411	114-26-1	Propoxur
U194	107-10-8	n-Propylamine (I,T)
U083	78-87-5	Propylene dichloride
U387	52888-80-9	Prosulfocarb
U148	123-33-1	3,6-Pyridazinedione,1,2-dihydro-
*** [See Prior Text]		
U218	62-55-5	Thioacetamide
U410	59669-26-0	Thiodicarb
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-
U409	23564-05-8	Thiophanate-methyl
U219	62-56-6	Thiourea
*** [See Prior Text]		
U222	636-21-5	o-Toluidine hydrochloride
U389	2303-17-5	Triallate
U011	61-82-5	1H-1,2,4-Triazol-3-amine
*** [See Prior Text]		
See F027	88-06-2	2,4,6-Trichlorophenol
U404	121-44-8	Triethylamine
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
*** [See Prior Text]		

CAS Number given for parent compound only.

G. Constituents that Serve as a Basis for Listing Hazardous Waste. Table 6 lists constituents that serve as a basis for listing hazardous waste.

Table 6. Table of Constituents that Serve as a Basis for Listing Hazardous Waste

* * * [See Prior Text in EPA Hazardous Waste Number F001-K151.tetrachloroethylene]
EPA Hazardous Waste Number K156 benomyl carbaryl carbendazim carbofuran carbosulfan formaldehyde methylene chloride triethylamine
EPA Hazardous Waste Number K157 Carbon tetrachloride formaldehyde methyl chloride methylene chloride pyridine triethylamine
EPA Hazardous Waste Number K158 benomyl carbendazim carbofuran carbosulfan chloroform methylene chloride
EPA Hazardous Waste Number K159 benzene butylate epc molinate pebulate vernolate
EPA Hazardous Waste Number K161 antimony arsenic metam-sodium ziram

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22: 829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:321 (February 1998).

§4905. Exclusions for Wastewaters

* * *

[See Prior Text in A.1-3]

4. a discarded commercial chemical product or chemical intermediate listed in LAC 33:V.4901.D and E arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials

or are produced in the manufacturing process. For purposes of this Paragraph, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers rendered empty by that rinsing; or

5. wastewater resulting from laboratory operations containing toxic (T) wastes listed in LAC 33:V.4901 provided that the annualized average flow of laboratory wastewater does not exceed 1 percent of total wastewater flow into the headworks of the facility's wastewater treatment or pre-treatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of the facility's wastewater treatment or pre-treatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

6. one or more of the following wastes listed in LAC 33:V.4901.C, wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K157), provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five parts per million by weight; or

7. wastewaters derived from the treatment of one or more of the following wastes listed in LAC 33:V.4901.C, organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste Number K156), provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of five milligrams per liter.

* * *

[See Prior Text in B-B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), amended LR 14:791 (November 1988), LR 15:182 (March 1989), LR 18:723 (July 1992), amended by Office of Waste Services, Hazardous Waste Division, LR 24:325 (February 1998).

H.M. Strong
Assistant Secretary

9802#025

RULE

**Department of Environmental Quality
Office of Water Resources**

Water Pollution Control Fee System
(LAC 33:IX.1303, 1307, 1309,
1311, and 1315)(WP026)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Pollution Control Division and Water Quality Management Division regulations, LAC 33:IX.1303, 1307, 1309, 1311, and 1315 (WP026).

The rule amends the Louisiana Water Pollution Control Fee System regulations to provide additional revenues that are needed to meet state and federal mandates to develop, implement, and assess Total Maximum Daily Loads (TMDL). A TMDL is a tool for determining allowable pollutant loadings for a waterbody and providing for the establishment of water quality-based controls necessary for that waterbody to meet water quality standards. Louisiana Water Pollution Control Fee System fees are applicable to all water discharge permits and are assessed for the purpose of funding the operation and activities of the Office of Water Resources in accordance with R.S. 30:2001 et seq. Annual fee amounts are calculated by multiplying the rating points, computed using the Annual Fee Rating Worksheet, times a rate factor, currently \$97.50 for municipal facilities and \$179.16 for all other facilities. This rule amends the Louisiana Water Pollution Control Fee System regulations to incorporate an overall 15 percent increase of the current fee to be implemented in two 7.5 percent increases in July 1998 and July 1999. The rule amends the fee currently assessed to facilities permitted under the Louisiana Water Pollution Control Fee System as follows:

- 1) the municipal rate factor (from \$97.50 to \$104.81, then to \$112.12);
- 2) the rate factor for all other facilities (from \$179.16 to \$192.60, then to \$206.03);
- 3) the maximum annual fee (from \$94,500 to \$101,587.50, then to \$108,675); and
- 4) the minimum annual fee (from \$227.50 to \$244.56, then to \$261.63).

The basis and rationale for this rule are to implement R.S. 30:2089, which states that in order to provide for the development of TMDLs and as otherwise may be necessary to protect the waters of the state of Louisiana, it is necessary for the department to increase the fees assessed by the Office of Water Resources.

The department has submitted a report to the Legislative Fiscal Office and the Joint Legislative Committee on the Budget demonstrating that the environmental and public health benefits outweigh the social and economic costs reasonably expected to result from the rule. This report is published in the potpourri section of this issue of the *Louisiana Register*.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

**Chapter 13. Louisiana Water Pollution Control Fee
System Regulation**

§1303. Authority

These regulations provide fees as required by R.S. 30:2014(B) and 2089.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 24:326 (February 1998).

§1307. Definitions

All terms used in these regulations, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act, or in substantive regulations promulgated by the secretary of the Department of Environmental Quality, shall have their usual meaning. In addition, for purposes of these regulations, the following definitions apply:

* * *

[See Prior Text]

Facility—for the purposes of the Louisiana Water Pollution Control Fee System, a pollution source, or any public or private property or site and all contiguous land and structures, other appurtenances and improvements, where an activity is conducted that discharges or may result in the discharge of pollutants into waters of the state.

* * *

[See Prior Text]

Major Facility—for the purposes of the Louisiana Water Pollution Control Fee System, any facility classified as such by the administrative authority.

* * *

[See Prior Text]

Permit or License—for the purposes of the Louisiana Water Pollution Control Fee System, written authorization issued by the administrative authority to discharge, emit, or dispose of liquid, gaseous, semi-solid or solid waste or reusable materials, or radioactive material from or at a site or facility, including all conditions set forth therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 18:731 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998).

§1309. Fee System

A. Applicability. Fees established by these regulations shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law, R.S. 30:2071 et seq., including those with no discharge and/or closed system permits.

* * *

[See Prior Text in B - B.2]

3. The rate factor shall be applied per rating point as follows:

- a. for municipal facilities:
 - i. \$97.50 per rating point through June 30, 1998;
 - ii. \$104.81 per rating point from July 1, 1998, through June 30, 1999; and
 - iii. \$112.12 per rating point as of July 1, 1999; and
- b. for all other facilities:
 - i. \$179.16 per rating point through June 30, 1998;
 - ii. \$192.60 per rating point from July 1, 1998, through June 30, 1999; and
 - iii. \$206.03 per rating point as of July 1, 1999.

* * *

[See Prior Text in B.4 - C.2]

3. This fee shall be 20 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Subsection E.1 of this Section.

* * *

[See Prior Text in D - D.2]

3. This fee shall be 20 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Subsection E.1 of this Section, for permit actions requiring implementation of the public notice procedure.

4. For all other permit actions, this fee shall be 10 percent of the calculated annual fee but not less than the minimum annual fee, as defined in Subsection E.1 of this Section.

E. Minimum and Maximum Annual Fee

- 1. The minimum annual fee shall be:
 - a. \$227.50 through June 30, 1998;
 - b. \$244.56 from July 1, 1998, through June 30, 1999;
- and
- c. \$261.63 as of July 1, 1999.
- 2. The maximum annual fee shall be:
 - a. \$94,500 through June 30, 1998;
 - b. \$101,587.50 from July 1, 1998, through June 30, 1999; and
 - c. \$108,675 as of July 1, 1999.

* * *

[See Prior Text in F - M]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998).

§1311. Instructions for Completing Municipal Facility Annual Fee Rating Worksheet

* * *

[See Prior Text in A - A.2]

3. Check the applicable complexity designation and record the associated points in the complexity points blank.

Note: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.L.2.

* * *

[See Prior Text in A.4 - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:627 (September 1988), LR 18:732 (July 1992), LR 24:327 (February 1998).

§1315. Instructions for Completing Industrial Facility Annual Fee Rating Worksheet

* * *

[See Prior Text in A - A.2]

3. Check the applicable complexity designation and record the associated points in the complexity points blank.

Note: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.L.2.

* * *

[See Prior Text in A.4 - G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 18:733 (July 1992), amended LR 24:327 (February 1998).

Linda Korn Levy
Assistant Secretary

9802#024

RULE

**Office of the Governor
Crime Victims Reparations Board**

Definitions and Award Payments/Limits
(LAC 22:XIII.103, 501, and 503)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparation Board hereby amends rules relative to the awarding of compensation to applicants.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§103. Definitions

* * *

Intervenor—a person who goes to the aid of another and is killed or injured in the good faith effort to prevent a crime covered by Chapter 1, to apprehend a person reasonably suspected of having engaged in such a crime, or to aid a peace officer. "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

Pecuniary Loss—amount of expenses reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

- a.i. - iii. ...

- b. as a consequence of death:
 - i. - iii. ...
 - iv. counseling or therapy for any surviving family member of the victim or any person in close relationship to such victim;
 - v. *pecuniary loss* does not include loss attributable to pain and suffering.
- c. - d. ...

* * *

Victim—

- a. any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by Chapter 1; or
- b. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 23:861 (July 1997), LR 24:327 (February 1998).

Chapter 5. Awards

§501. Payment of Awards

- A. ...
- B. Verification of Claimed Expenses
 - 1. Each type of claim form used by the board should identify the documents that must be submitted by the victim/claimant to support and verify a claimed expense.
 - 2. When applications lack documentation necessary for a decision or award in total or in part, and adequate effort has been made to acquire that information, the application will be placed on an agenda and the decision and award will be based on that information available. Should the formerly sought information become available, a supplemental application can be filed.

- C. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:710 (August 1996), LR 24:328 (February 1998).

§503. Limits on Awards

- A. - B.3. ...
- C. Funeral Expenses
 - 1. A maximum of \$3,000 for all services. This is to cover the costs of the funeral.
 - 2. - 3. ...
 - 4.a. - c. Repealed.
- D. Lost Wages/ Earnings
 - 1. - 3.b. ...
 - 4. The board may reimburse loss wages/earnings with a maximum of \$10,000.
 - a. The board will award up to \$320 per week based on net, after-tax or take home pay.
 - b. If only gross income is provided, the board will award at 80 percent of gross up to the \$400 per week cap.
 - 5. - 8. ...
 - 9.a. - d. Repealed.
 - 10. - 11. ...
 - 12. Repealed.

- E.1. - 3.b. ...
- F. Ambulance
 - 1. A maximum of \$300 for regular ambulance transport. A maximum of \$500 exists for air medical transport.
 - 2. - 4. ...
- G. Medical Expenses
 - 1. - 2. ...
 - 3. The board will pay 70 percent of all outstanding charges after any third-party payment sources up to the statutory limits.
 - 4. - 5. ...
 - 6. Psychiatric Inpatient Hospitalization. It is the opinion of the board that any psychiatric inpatient hospitalization required by a crime victim would be very acute and crisis management in scope. Compensation for such care will require a peer review as described in §503.I.3.
 - a. The board will not reimburse for more than seven days of psychiatric inpatient hospitalization at a cost of no more than \$500 per day. This is intended for an acute hospitalization with the goals of emotional stabilization and placement in outpatient treatment.
 - b. The board will not reimburse more than one psychological evaluation (as defined in §503.I.5).
 - i. - iii.(c). ...
 - c. Therapeutic groups outside the per diem charge of the hospital will not be reimbursed.
 - d. All therapist charges that are outside the per diem charge of the hospital will be limited to no more than one session per day at a rate described in §503.I.8.
 - e. - f. Repealed.
 - 7. - 11. ...
 - 12.a. - c. Repealed.
 - H. Travel Expenses. Transportation costs other than the initial ambulance services are reimbursable only when required medical care is not locally available. Certification is required by the physician of record that local medical care is unavailable. Allowable private vehicle mileage for out-of-town travel is reimbursed at the rate published in the current state travel regulations.
 - I. Mental Health Counseling
 - 1. It is the board's opinion that the majority of those directly victimized by violent crime (e.g., *Primary Victims*) can obtain significant improvement within the first six months of qualified counseling. The board recognizes that short-term crisis management counseling may also be needed for *Secondary Victims* (defined as primary family members or cohabitators of the victim).
 - 2. Reimbursement of mental health services is limited to six months from the date of the first visit or after the first 26 qualified sessions/groups (whichever comes first).
 - 3. Cases which extend beyond the allowable time limit will be subject to a peer review by a psychiatrist or psychologist, licensed by the state of Louisiana, consulting with the board. Peer review will involve an examination of the following:
 - a. complete progress notes for crime-related conditions(s) being treated;
 - b. any psychological evaluations/testing pertaining to the crime-related condition;

- c. description of prior conditions or treatments;
 - d. current treatment and treatment response to date;
- and
- e. updated treatment plan.

4. For the life of each case, reimbursable charges may not exceed \$5,000 for Primary Victims and \$2,500 for Secondary Victims. These limits include the cost of all treatment services and psychological evaluations/testing as described in §503.I.8.

5. Psychological evaluation/testing may not exceed \$300. Any evaluation/testing must be conducted by a licensed psychologist and should include the following:

- a. description of any structured interview used;
- b. description and results of testing administered; and
- c. case formulation and DSM-IV diagnoses.

6. Treatment plans completed by the therapist of record (or primary therapist) are required for consideration of mental health expenses. The therapist must show that the psychological condition being treated is a direct result of the crime. Treatment plans must be fully documented in a "problem" and "intervention" format. Detail must be provided for both symptom and intervention. Single word descriptors such as "nightmares" or "supporting counseling" will not suffice. Insufficient treatment plans will be returned to the therapist and the case may be deferred or denied until revised.

7. All payments for services are subject to review and audit by the board.

8. Only physicians, psychiatrists, state-certified or state-licensed psychologists, licensed professional counselors, or board-certified social workers are eligible for reimbursement. The rates for reimbursement shall be:

a. M.D./Psychiatrists	\$75/hour
b. Ph.D. or Psy.D. Licensed Psychologists	\$75/hour
c. Licensed Professional Counselors	\$60/hour
d. Board-Certified Social Worker	\$60/hour
e. Group Therapy Rates (90 minute minimum sessions)	\$25/session

9. It is the board's assessment that psychiatric inpatient hospitalization of crime victims is rarely required. If under unusual circumstances such treatment is required, compensation will be subject to a peer review as previously described. Reimbursement for such treatment is limited in amounts and procedures listed under "medical" services.

10. Any claim for injuries sustained may be denied if prescribed or preempted as a matter of law.

11. Repealed.

J. Catastrophic Property Loss

1. - 3. ...

4. Repealed.

K. Vehicular Incidents

1. - 2. ...

3.a. - b. Repealed.

L. Child Care Expenses

1. - 3. ...

4.a. - d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998).

Lamarr Davis
Chairman

9802#004

RULE

Office of the Governor Division of Administration Architects Selection Board

Regular Meeting Dates; Application Form;
and Voting Procedure (LAC 4:VII.Chapter 1)

The Architects Selection Board hereby amends a rule on the procedure by which the board procures the services of architects licensed to practice in the state of Louisiana. This rule is amended in the following ways:

1. It revises the dates of regular meetings. Experience has shown the specified dates of the regular meetings to be difficult to meet.

2. It changes the designation of the application form. The designation of the application form in use was not accurately stated in the rules.

3. It changes the voting procedure used to select applicants to be interviewed in the interview process. The current procedure limits the number of firms that can be interviewed.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 1. Architects Selection Board

§101. Name

The name of this board is the "Louisiana Architects Selection Board," hereinafter referred to as "board," and its domicile shall be in Baton Rouge, Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), LR 24:329 (February 1998).

§103. Authority

The Louisiana Architects Selection Board shall be organized in accordance with the provisions of R.S. 38:2310 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:329 (February 1998).

§105. Objective

The objective of this board is to provide a system for the procurement of services rendered by architects, licensed to practice in the state of Louisiana, that is impartial, equitable and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), LR 24:330 (February 1998).

§107. Members

A. The board shall be composed of members, serving terms in accordance with the provisions of the authority set forth in §103.

B. Any member desiring to resign from the board shall submit his resignation, in writing by registered mail, to the governor of Louisiana and the president of the Board of Architectural Examiners, with copies addressed to the chairman of the board. The effective date of resignation shall be the date of registered mailing to the Governor's Office.

C. The filling of a board vacancy for the unexpired term due to resignation, or death, or removal from office by just cause, shall be made in accordance with the provisions of the authority stated in §103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:330 (February 1998).

§109. Officers

A. The officers of this board shall be a chairman and a vice chairman elected by the board at the first regular meeting following each January 1 and July 1. The board member who serves as chairman and the board member who serves as vice chairman shall be from different, overlapping terms of service to the board. In the event, for whatever reason, the offices of both chairman and vice chairman of the board become vacant, a special board meeting shall be called within 30 days of the second vacancy to fill both vacancies for the remainder of the unexpired term of each respective office.

B. The duties of the chairman shall be as follows:

1. be the presiding officer at meetings of the board;
2. call meetings of the board;
3. coordinate the activities of the board;
4. appoint all committees and serve as an ex-officio member thereof;
5. be responsible for implementing all orders and resolutions of the board; and
6. have the authority to issue the official advertisement of the intent of an agency to contract for design services.

C. The duties of the vice chairman shall be as follows:

1. in the event of absence or incapacity of the chairman, assume his duties as outlined above;
2. authenticate by his signature, when necessary, all acts, orders, and proceedings of the board, including the minutes; and

3. tabulate and record the results of all balloting at the meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), repromulgated LR 24:330 (February 1998).

§111. Meetings

A. A regular meeting of the board shall be held between January 1 and June 30 and between July 1 and December 31 of each year, unless such meeting is waived by the chairman as unnecessary.

B. Special meetings may be called by the chairman or shall be called upon the written request of a simple majority of the total membership of the board. Except in cases of emergency, at least three days' notice shall be given for special meetings.

C. A simple majority of all members of the board shall constitute a quorum.

D. All meetings shall be held in public except as provided in §128.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975) amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 17:1206 (December 1991), LR 24:330 (February 1998).

§113. Committees

Committees, standing or special, shall be appointed by the chairman of the board as he shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:330 (February 1998).

§115. Parliamentary Authority

The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the board except as modified herein or as provided for in §119.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:330 (February 1998).

§117. Voting

Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:330 (February 1998).

§119. Amendments to Rules

These rules may be amended in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:331 (February 1998).

§125. Application

A. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of Title 38 of the Revised Statutes of 1950, R.S. 38:2310 et seq., may submit an application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information which the board may request.

B.1. The Louisiana Architects Selection Board adopts the use of the LASB-1 form as the format for submitting a firm's experiences to the board.

2. The board will accept only those applications submitted on the current edition of the LASB-1 form, with no more than two attached additional 8½" x 11" sheets of paper. Any submittal not following this format will be discarded.

3. In this LASB-1 form, *principal* shall be defined as a licensed architect who has the right and authority to exercise control over the project; who shares in profits, losses, and responsibility for incurred liabilities.

4. The board has the right to require proof of compliance with the above definition.

C. Consultants may be listed at the option of the applicant.

D. All applications to be considered shall be received by the board at the Office of Facility Planning and Control during the time prescribed in the advertisement.

E. The board may, at its option and with the concurrence of the Division of Administration and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 20:29 (January 1994), LR 24:331 (February 1998).

§127. Selection

A. After the deadline for applications, the Office of Facility Planning and Control shall forward copies of the applications together with any available description of the job to the board members.

B. The selection procedure shall be as follows:

1. user agency shall give scope of project and make recommendations, with supporting data, of a firm or firms for the project under consideration;

2. discussion of applications and recommendation by the board members;

3. the board shall then take a vote. Each board member present shall, by written ballot, vote for three applicants. This is a weighted vote:

- a. first choice—three points;
- b. second choice—two points;
- c. third choice—one point.

Each board member shall vote for the first, second, and third choice of applicants for each project, except where fewer than six applicants have applied, in which case board members shall vote for only two applicants. In cases where there are three or fewer applicants, board members may vote for only one applicant. In all cases, board members may abstain from voting entirely;

4. the secretary shall tabulate these ballots aloud and report to the board the results of the balloting;

5. in the event that during the selection of a designer for a particular project the first ballot is unanimous for the first place choice, the selection shall be awarded to that firm, and a second ballot will not be required;

6. the two applicants receiving the most votes shall be considered nominated, then be voted on by written ballot, each board member having one vote;

7. the results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote;

8. in case of a tie for nomination, there shall be a runoff election to reduce the nominees to two in accordance with procedures prescribed in §127.B.3;

9. in case no applicant receives a majority vote for selection, a discussion will be held, and new balloting for selection shall take place;

10. the selection of an architect by the board shall be final unless formal charges of having submitted false information required by R.S. 38:2313 are made against the selected architect by the Office of Facility Planning and Control, in writing, with proper accompanying documentation, to the board members and the selected architect within seven days of the selection. When a formal charge is made, the board shall, within 10 calendar days, hold a hearing at which time the evidence of false information shall be presented and the selected architect shall be given opportunity to present rebuttal. If the board determines that the charges of false information are not sufficiently documented, the selection shall become final. If the board determines that the information was false, the application will be rejected and the project readvertised. The applicant shall be allowed to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:181 (April 1975), amended LR 4:495 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:263 (April 1989), LR 24:331 (February 1998).

§128. Interview Procedures

The interview procedures of the board are as follows:

1. The user agency notifies the Division of Administration, or the Division of Administration may

determine on its own that the proposed project is of a special nature and should be considered under the interview procedure.

2. The user agency, the Division of Administration, and the chairman of the board (vice chairman in the absence of a chairman) shall decide if the nature of the project warrants utilizing the interview procedure. This may be done in a meeting or by teleconference.

3. The chairman of the board authorizes the Division of Administration to advertise the project under these procedures. The advertisement will contain:

- a. the deadline for applications;
- b. the date of the meeting;
- c. the proposed interview meeting date.

4. The selection procedure (§127) will be followed from §127.A and B.1, 2, 3, 4, and 6. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented:

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant that receives a majority of "yes" votes will be invited to be interviewed.

c. Voting will end when there are five applicants to be invited to be interviewed or the end of the list is reached, whichever comes first.

d. In the event that the end of the list is reached before there are at least three applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to be interviewed at an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in §128.A.5 and pursuant to R.S. 42:6 and 42:6.1.

7. After all the interviews have been conducted, the board will return to a public meeting.

8. At this time, the selection procedure will resume according to procedures outlined in §127.B.5, 7, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2310 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 17:1206 (December 1991), amended LR 24:331 (February 1998).

§129. Emergency Procedures

The emergency procedures of the board are as follows:

1. notification of emergency to the Division of Administration by the user agency is received;

2. chairman of the board is notified by the Division of Administration that an emergency does exist;

3. the chairman of the board then:

a. authorizes the advertisement; and

b. sets date for meeting for selection within 72 hours after advertisement is printed, not including Saturdays, Sundays and holidays;

4. meeting will convene at 10 a.m. on the day designated pursuant to §129.3.b to receive applications;

5. applications will be distributed as the first order of business;

6. meeting will then adjourn and reconvene one hour later (11 a.m.) after review of applications; and then selections shall be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 7:408 (August 1981), amended LR 10:455 (June 1984), LR 24:332 (February 1998).

§131. Communications with Applicant Firms

No member of the board shall communicate in any manner concerning a project application with any representative of an applicant firm or anyone communicating on behalf of an applicant firm. This restriction shall apply from the time advertisement of a project begins until the opening of the board meeting at which the project application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 10:454 (June 1984), repromulgated LR 24:332 (February 1998).

§133. Information

Any person may obtain information concerning the board, its rules, regulations and procedures from the board's secretary at the Office of Facility Planning and Control, Division of Administration, Box 94095, Capitol Station, Baton Rouge, LA 70804. Requests for information may be made verbally or in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by the Office of Facility Planning and Control, with the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 15:263 (April 1989), repromulgated LR 24:332 (February 1998).

§139. Severability

If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules which can be given effect without the invalidated provisions, items, or applications and, to this end, the provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), LR 24:332 (February 1998).

§141. Previous Rules Repealed

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 10:455 (June 1984), repealed LR 24:333 (February 1998).

Roger Magendie
Director

9802#018

RULE

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Public Contracts—Closed Specifications
for Certain Products (LAC 34:III.901)

The Office of Facility Planning and Control hereby adopts the following rule governing the closing of specifications for products necessary to expand or extend existing systems but for which a person or group of persons possesses the right to exclusive distribution. This rule is being adopted in direct compliance with Act 678 of the 1997 Regular Session, and R.S. 49:950 et seq., the Administrative Procedure Act.

Under current purchasing procedures, products for the systems listed in the rule must be purchased separately from the construction contract and turned over to the contractor for installation. This causes a risk of improper installation and reduces the contractor's responsibility for the proper functioning of the system. The rule makes it possible to include the products in the construction contract and improve the quality of installation and obtain a single source of responsibility.

Title 34

**GOVERNMENT CONTRACTS,
PROCUREMENT AND PROPERTY CONTROL**

Part III. Facility Planning and Control

Chapter 9. Public Contracts

§901. Closed Specifications for Certain Products

A. This rule applies to the closing of specifications to products that are necessary to expand or match products in existing systems but for which a person or group of persons possesses the right to exclusive distribution.

B. A closed specification may be submitted and authorized where a person or group of persons possesses the right to exclusive distribution of the specified product when that product is required to expand or extend an existing system at a facility or site if that product is one of the systems listed in §901.B.1-11, or a component of one of them, and the approving authority has determined that all products other than the one specified would detract from the utility of the system; and all other applicable requirements of R.S. 38:2290-2296 have been met:

- 1. energy management systems;
- 2. chillers when necessary for refrigerant conversion;
- 3. fire alarm systems;

- 4. electronic security systems;
- 5. elevators;
- 6. nurse call systems;
- 7. medical gas systems;
- 8. stage lighting systems;
- 9. sound systems;
- 10. clock systems;
- 11. brick and stone.

C. It is the responsibility of the approving authority to verify that the product for which the specification is closed is the only acceptable product and to comply with all applicable requirements of R.S. 38:2290-2296.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2290(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 24:333 (February 1998).

Roger Magendie
Director

9802#017

RULE

**Office of the Governor
Patient's Compensation Fund Oversight Board**

Financial Responsibility:
Insurance (LAC 37:III.505)

Under the authority of R.S. 40:1299.44(D)(3), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Patient's Compensation Fund Oversight Board has amended LAC 37:III.505 as follows, which will incorporate existing practice by clarifying the definition of deductible within the meaning of the rules.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 5. Enrollment with the Fund

§505. Financial Responsibility: Insurance

- A. ...
- B. To be acceptable as evidence of financial responsibility pursuant to §505, an insurance policy:
 - 1. - 3. ...
 - 4. shall be nonassessable;
 - 5. shall not be subject to a retention or deductible payable by the insured health care provider, with respect to liability, costs of defense or claim adjustment expenses, in excess of \$25,000, provided that an insurance policy provision which requires reimbursement of the insurer by the insured of indemnification and/or expenses and which provides that the insurer remains directly and primarily responsible to the patient for the amount thereof shall not be considered a retention or deductible and shall, in that regard, be deemed to satisfy the financial responsibility requirements of §505; and
 - 6. must, by provision or endorsement, obligate the insurer to give immediate notice to the executive director of

cancellation, termination, or lapse of the policy, or of modification of the scope or limits of its coverage by endorsement or otherwise.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44(D)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:170 (February 1992), amended LR 21:394 (April 1995), LR 23:68 (January 1997), LR 24:333 (February 1998).

Michael A. Walsh
Executive Director

9802#045

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Consulting and Providing Legend and Certain
Controlled Substances (Telazol) (LAC 46:LXXXV.704)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.704 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§704. Consulting and Providing Legend and Certain Controlled Substances

A. Legend Drugs

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local governmental agency to perform animal control services on behalf of the local governmental agency seeks to administer legend drugs to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who obtains the legend drugs.

2. Said legend drugs must be stored and administered under the general supervision of the licensed veterinarian. General supervision means that the licensed veterinarian must provide the employee(s) of the animal control agency with written instructions and follow-up assistance on the proper storage, use and administration of the drug(s) being provided.

3. The licensed veterinarian may submit to the board, for review and/or approval, a written protocol of his supervision of the animal control agency's employees.

4. The licensed veterinarian shall also require the animal control agency's employees to maintain record keeping logs which shall include, but would not be limited to, the following:

- a. date of each use of a legend drug;
- b. species of animal;
- c. estimated weight of animal;
- d. dose administered;
- e. name of animal control officer administering the

drug.

5. Said records should be reviewed by the supervising veterinarian on at least a quarterly basis.

B. Telazol (Tiletamine HCL and Zolazepam HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local government agency to perform animal control services on behalf of the local governmental agency seeks to administer the drug Telazol (tiletamine HCL and zolazepam HCL), a class III scheduled drug, to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who is registered with the Drug Enforcement Administration (DEA) at the shelter location where the drugs will be stored and administered, who obtains, and who is responsible for, the Telazol (tiletamine HCL and zolazepam HCL) used.

2. A storage and use plan for Telazol (tiletamine HCL and zolazepam HCL) which meets or exceeds the requirements of all federal drug enforcement agencies, which include the requirement for storage in a securely locked, substantially constructed cabinet, and the standards of record keeping found in Chapter 7 of these rules shall be submitted to the Board of Veterinary Medicine for approval.

a. This usage plan shall include a requirement that each use of Telazol (tiletamine HCL and zolazepam HCL) shall be documented for review by the licensed veterinarian responsible for the purchase and inventory of that drug.

b. This usage plan shall include a requirement that this documentation include, but not be limited to:

- i. date of each use of the drug;
- ii. species of animal;
- iii. estimated weight of animal;
- iv. dose administered;
- v. name of animal control officer administering the

drug;

vi. a constant (running) inventory of the drug present at the facility.

c. This usage plan shall include a requirement that a review of each use of Telazol (tiletamine HCL and zolazepam HCL) shall be made by the responsible veterinarian and that said veterinarian shall initial the usage log entries to indicate this review. A review of the usage plan shall be made at least quarterly and the quantities of drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

d. This usage plan shall include a requirement that any removal of Telazol from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be maintained in a locked container when not in use, and shall be

- documented in a manner to include, but not be limited to:
- i. a signed log indicating the person removing the drug;
 - ii. the date on which the drug was removed;
 - iii. an accounting for all drug used and the amount returned;
 - iv. the date on which the remaining drug was returned and the signature of the person returning it.

C. A licensed veterinarian who chooses to assist an animal control shelter in the methods prescribed in §704 shall be solely responsible for which drugs he or she is willing to provide and in what quantities.

D. Section 704 does not pertain to any drug(s) listed in any DEA classification schedule (also known as controlled drugs), except Telazol (tiletamine HCL and zolazepam HCL). Section 704 specifically does not apply to sodium pentobarbital which is regulated for animal control agency use in R.S. 37:1551-1558.

E. The definitions found in §700 shall apply to all terms used in §704.

F. Failure of a licensed veterinarian to comply with any and all provisions of §704 shall be considered a violation of the rules of professional conduct. Said veterinarian may be subject to disciplinary action as provided for in R.S. 37:1518 and 1526.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666 (June 1994), amended LR 24:334 (February 1998).

Charles B. Mann
Executive Director

9802#028

RULE

**Department of Health and Hospitals
Board of Veterinary Medicine**

Specialty List (LAC 46:LXXXV.1063)

The Board of Veterinary Medicine hereby amends LAC 46:LXXXV.1063 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 10. Professional Conduct

§1063. Specialty List

A. ...

B. A veterinarian may not use the term *specialist* for an area of practice for which there is not AVMA recognized certification, nor may a veterinarian state or imply that he is

a certified or recognized specialist unless he is board certified in such specialty.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR: 16:232 (March 1990), amended LR 23:968 (August 1997), LR 24:335 (February 1998).

Charles B. Mann
Executive Director

9802#029

RULE

**Department of Health and Hospitals
Office for Citizens with Developmental Disabilities**

Admission to State-Operated
Developmental Centers (LAC 48:IX.511)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities has adopted LAC 48:IX.511, State Residential Facilities as follows.

Title 48

PUBLIC HEALTH—GENERAL

**Part IX. Mental Retardation/Developmental Services
Chapter 5. State Residential Facilities**

**§511. DHH Policy on Admission to State Residential
Facilities**

Effective February 20, 1998, an individual whose eligibility for participation in the MR/DD Services System has been established and whose generic service plan indicates a need for a residential living option may be voluntarily admitted to a public residential facility at which there is an available funded bed. The public facility must determine that the individual's needs, as specified in the generic service plan, can be met. The individual is formally admitted when the public facility accepts the individual as a recipient. In the process of selecting a generic living option, the team, which includes the individual and/or family, is required to consider what meets the individual's needs, and no more, and the most natural living option available, consistent with an individual's community peers. Involuntary admission is governed by R.S. 28:404.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:380 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 24:335 (February 1998).

Bobby P. Jindal
Secretary

9802#055

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Ambulatory Surgical Centers (LAC 48:I.4561)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing regulations for ambulatory surgical centers as established by R.S. 40:2131-2141. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

§4561. Housekeeping

A. - H. ...

I. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 24:336 (February 1998).

Bobby P. Jindal
Secretary

9802#048

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Early Periodic Screening, Diagnosis,
and Treatment (EPSDT) Program
Reimbursement for Rehabilitative Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule shall be adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing revises the

reimbursement rates for rehabilitation services provided under the Early Periodic Screening Diagnosis and Treatment (EPSDT) Program for the following procedure codes:

Procedure Code	Description	New Rate
X0411	OT Evaluation, Re-Evaluation	\$51.00
97504	OT Orthotics Training, each 15 min.	\$8.00
97530	Therapeutic Activity, 15 min.	\$8.00
97750	OT Phys. Performance Test, 15 min.	\$8.00
X0404	Physical Therapy Evaluation	\$54.00
97110	PT Therapeutic Procedure, 15 min.	\$10.00
97112	PT Neuromuscular Re-Educ., 15 min.	\$10.00
97116	PT Gait Training, 30 min.	\$20.00
97124	PT Physical Med., 30 min.	\$10.00
Y7200	Combo. of Phy. Med., Init., 30 min.	\$20.00
Y7201	Physical Therapy + 15 min.	\$30.00
97032	Application of Modality, 15 min.	\$10.00
X0412	Speech/Language Evaluation/Re-Eval	\$45.00
Y2615	Individual Speech Therapy-60 min.	\$30.00
X0423	Individual Speech Therapy-30 min.	\$15.00
Y2611	Individual Speech Therapy-20 min.	\$10.00
X0424	Individual Speech Therapy-15 min.	\$7.50
Y2512	Group Speech Therapy-60 min.	\$30.00
Y2509	Group Speech Therapy-30 min.	\$15.00
Y2510	Group Speech Therapy-20 min.	\$10.00
Y2511	Group Speech Therapy-15 min.	\$7.50

All school boards that participate in Medicaid as EPSDT health services providers must submit a signed school system certification of understanding (PE-50 EPSDT provider supplement agreement "C") in order to receive the new reimbursement rates for these services. The new reimbursement rates will not be activated until a completed PE-50 EPSDT provider supplement agreement "C" form has been received from all of the school boards enrolled as EPSDT health services providers.

Bobby P. Jindal
Secretary

9802#050

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Mental Health Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medicaid Program, as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following revisions in staff qualifications, function, and frequency of reimbursement under the Mental Health Rehabilitation Program:

I. - II. D. ...

III. Administrative Requirements

A. - B.1. ...

2. The clinical manager must provide clinical management of at least 12 hours for children and five hours for adults per quarter for high- and moderate-level-of-need consumers. The clinical management hours for low-level-of-need consumer must be three hours for adults and six hours for children per quarter.

3. - 8.c. ...

9. Mental Health Rehabilitation clinical managers must attend all mandated meetings conducted by the Office of Mental Health and/or the Bureau of Health Services Financing.

C. Staffing Definitions

All experience requirements indicated below are related to paid experience in an agency. Volunteer work, college work/study, or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person must be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

An agency may appeal a decision on staff qualifications by submitting a request to the Bureau of Health Services Financing. The appeal will be heard on an individual basis by the assistant secretary of the Office of Mental Health and the director of the Bureau of Health Services Financing or their designees. Examples of appeals include lack of available staff in a rural area; and employment of staff with extraordinary training and/or experience.

C.1 - 5.c. ...

d. a nurse who is licensed as a registered nurse in the State of Louisiana by the Board of Nursing and:

(1) is a graduate of an accredited master's-level program in psychiatric mental health nursing with two years of post-master's supervised experience in the delivery of mental health services; or

(2) has a master's degree in nursing or a mental health related field with two years of supervised post master's experience in the delivery of mental health services.

e. a licensed professional counselor who is licensed as such under the provision of R.S. 37:1101-1115; and

(1) whose initial date of licensure is on or after August 15, 1996; or

(2) who is endorsed by the Licensed Professional Counselor Board of Examiners as meeting all licensure conditions required on August 15, 1996.

f. *Mental Health Professional (MHP)*—an individual who is supervised by an LMHP and meets the following criteria:

(1) has a Master of Social Work degree; or has a Master of Arts degree in a mental health related field; a Master of Science degree in a mental health related field; or a Master of Education degree in a mental health related field; and

(2) has a minimum of 15 hours of graduate-level course work and/or practicum in applied intervention strategies/methods designed to address behavioral, emotional, and/or mental problems. These hours may have been obtained as a part of, or in addition to, the master's degree.

g. *Mental Health Specialist (MHS)*—an individual who is supervised by an LMHP or MHP and meets one or more of the following four criteria:

(1) has a Bachelor of Arts degree in a mental health related field; or

(2) has a Bachelor of Science degree in a mental health related field; or

(3) has a bachelor's degree and is a college student pursuing a graduate degree in a mental health related field and has completed at least two courses in that identified field; or

(4) has a high school degree or a GED; or

(a) has four years experience providing direct services in a mental health, physical health, social services, education or correctional setting; or

(b) has two years experience as a mental health assistant in a mental health rehabilitation setting.

h. *Mental Health Assistant (MHA)*—an individual who is supervised by an LMHP or a MHP under the supervision of an LMHP and meets one or more of the following three criteria:

(1) has a high school degree or GED; and

(2) has one year documented history of serious mental illness or emotional/behavioral disorder as determined by the Office of Mental Health; or

(3) has two years documented history as the parent of a child diagnosed as emotionally/behaviorally disordered or seriously mentally ill.

i. Supervision. Each MHR agency must implement a plan for supervision according to the guidelines established by the Office of Mental Health.

D. Training

All agency staff, including volunteers and students, must undergo 16 hours of orientation; and nonLMHP staff must undergo an additional 16 hours of on-the-job training.

Orientation of at least 16 hours must be provided within one week of the date of employment by the Mental Health Rehabilitation Agency.

Eight hours of orientation must include the following content areas:

1. confidentiality;
2. rights protection and reporting of violations;
3. abuse and neglect policies and procedures;
4. emergency and safety procedures;
5. infection control;
6. agency policies and procedures;
7. ethics, including advertising and solicitation.

Eight hours of orientation must relate directly to serving persons with serious mental illness or emotional /behavioral disorder. Consumers and/or family members should be used as instructors for at least two hours of training.

Training is provided by persons with documented knowledge of the training topic and of the serious mental illness and/or emotional/behavioral disorder populations. On-the-job training of at least 16 hours must be provided to nonLMHP staff prior to the delivery of services for which a claim will be submitted. Training may involve observing and assisting a trained staff member in the delivery of Mental Health Rehabilitation services. Training must be provided within 45 days of employment for all direct care staff including, at a minimum:

- a. basic information about mental illness including, various rehabilitative approaches to services;
- b. training in prevention and management of aggressive behavior, using a nationally-recognized curriculum;
- c. cultural competency training designed to achieve respectfulness of differences and cultural proficiency related to the populations served by the Mental Health Rehabilitation Agency;
- d. first aid, Cardiopulmonary Resuscitation (CPR), and seizure assessment;

Note: Licensed physicians are exempt from first aid and seizure assessment training.

- e. implementation of a behavior management plan.

An additional 10 hours of training must be provided within 60 days of employment for all staff that provide psychosocial skills training. Training content, minimally, includes the philosophy, goals, and techniques of psychosocial skills training.

In addition to training specified above, each staff member must annually receive training that is specifically related to his or her job duties, including refresher courses:

- (1) each full-time professional staff must receive at least 20 hours training per year;
- (2) each full-time paraprofessional staff must receive at least 40 hours training per year;
- (3) each part-time professional staff must receive at least 16 hours training per year;
- (4) each part-time paraprofessional staff must receive at least 20 hours training per year.

IV. - V. ...

VI. Service Package

A. The individualized mix of services for any individual is specified on the 90-day action strategy of the MHR service agreement. The MHR service agreement is derived from the MHR assessment:

1. clinical management;
2. individual intervention;
3. supportive counseling;
4. parent/family intervention;
5. group counseling;
6. medication management;
7. behavior intervention plan development;
8. individual psycho social skills training;
9. group psycho social skills training;
10. service integration.

B. Staff Function/Qualifications

All staff qualified, eligible and employed prior to February 20, 1998, may continue to provide Mental Health Rehabilitation services with the agency employing them. If any individual on staff changes agencies, the new staff requirements must be met. Minimum qualifications for staff performing Mental Health Rehabilitation functions are as follows:

Staff Function	Qualifications
Agency Administration/Direction	Acceptance by Provider Enrollment
Mental Health Rehabilitation Program Direction	(a) LMHP; or (b) an individual with six years experience in the mental health field.
Psychiatric Director	Board-certified or board-eligible psychiatrist.
Clinical Management	LMHP
Individual Intervention Supportive Counseling Parent/Family Intervention Group Counseling Behavior Intervention Development Medication Monitoring Medication Education	LMHP or MHP under the supervision of a LMHP
Medication Administration	(a) Physician, preferably psychiatrist; or (b) Licensed nurse; or (c) Legally-approved person under supervision of a physician, preferably a psychiatrist
Psychosocial Skills trainer	LMHP or MHP or Mental Health Specialist under the supervision of a MHP or LMHP
Service Integration	Mental Health Assistant under the supervision of a LMHP or MHP

Supervisor	<p>LMHP and three years post graduate experience working with persons who are seriously mentally ill, at least one year of which was supervisory, management, or administrative experience.</p> <p>Supervisors of staff serving children have at least two years experience working with children with emotional/behavioral disorders.</p> <p>Supervisors of staff serving adults have at least two years experience working with adults with serious mental illness.</p>
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VII. Reimbursement

The fee for the initial assessment will be a single payment. The initial assessment fee includes all components of the MHR assessment, as well as services needed during the assessment period. The assessment includes a minimum of 10 hours of contact time with the consumer, family, significant others, and key informants. The reassessment is completed in the format outlined by the Office of Mental Health and is included in the monthly rate.

Adult assessment/service agreement \$ 700

Child/youth assessment/service agreement \$ 800

Reimbursement is made by a prospective, negotiated, and noncapitated rate based on the delivery of services as specified in the service agreement and the service package, as required for the adult and child/youth populations. Services are reimbursed based on services specified in the 90-day action strategy plan and are paid monthly, contingent upon the delivery of at least 80 percent of the prorated services approved in the 90-day MHR service agreement. Agencies must always strive to provide 100 percent of the services as agreed to in the service agreement. As Medicaid recipients progress in their rehabilitation services and the level of need decreases, services will transition from the high to medium and/or low level of need. Reimbursement will be made in the amounts specified below for the medium and low levels of need, as determined by the bureau or its designee:

	Adult		Child/Youth
High Need	\$1300	High Need	\$1375
Medium Need	\$ 550	Medium Need	\$ 800
Low Need	\$ 250	Low Need	\$ 250

VIII. ...

Bobby P. Jindal
Secretary

9802#054

RULE

**Department of Labor
Plumbing Board**

Medical Gas Piping Installers (LAC 46:LV.304)

The Plumbing Board hereby amends LAC 46:LV.304 to lessen the regulation of a defined group of medical gas piping installers who are not required as a condition of employment to perform brazing duties.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§304. Medical Gas Piping Installer License

A. - I. ...

J. A medical gas piping installer shall, as a condition of licensing under these regulations, maintain his brazer performance qualification in accordance with NFPA 99 standard on *Gas and Vacuum Systems*, latest edition. However, any licensed medical gas piping installer who annually certifies, on a form supplied by the board, that he is engaged in a managerial, supervisory or maintenance and repair employment position and is not required as a condition of employment to conduct brazing, shall be relieved of the brazer performance qualification. Any material misrepresentation made on such form by an eligible medical gas installer may be a condition for revocation or suspension of that medical gas piping installer license.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(G).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), amended LR 24:339 (February 1998).

Don Traylor
Executive Director

9802#002

RULE

**Department of Natural Resources
Office of Conservation**

Underwater Obstructions Removal
Program (LAC 43:XI.301 and 315-331)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the Underwater Obstructions regulations.

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation—Pipeline Division

Subpart 2. Underwater Obstructions

Chapter 3. Underwater Obstructions

§301. Definitions

* * *

Assistant Secretary—the assistant secretary of the Office of Conservation within the Department of Natural Resources or his authorized representatives.

* * *

Conservation—the Office of Conservation within the Department of Natural Resources.

Department—the Department of Natural Resources.

* * *

Fund—the Underwater Obstruction Removal Fund.

* * *

Program—the Underwater Obstruction Removal Program.

* * *

Secretary—the secretary of the Department of Natural Resources or his authorized representative.

* * *

Underwater Obstruction—any obstacle, whether natural or manmade, which impedes normal navigation and commercial fishing on the navigable waters of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:702 (July 1985), amended LR 24:340 (February 1998).

§315. Memorandum of Understanding

The secretary and the assistant secretary for the Office of Conservation have been delegated certain authority for the administration of this Part by Act 666 of the 1997 Regular Session of the Louisiana Legislature. A memorandum of understanding shall be prepared and signed by both entities for the purpose of delineating and agreeing on the authority and function to be served by each of them for the administration of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:340 (February 1998).

§317. Office of the Secretary

A. The secretary shall perform all duties and functions authorized by the provisions of Act 666 of 1997 Regular Session of the Louisiana Legislature.

B. The Office of the Secretary is authorized to expend a sum, not to exceed \$200,000 per annum, for the department's administration of this Part.

C. The secretary shall administer general oversight of expenditures or commitments to make expenditures from the fund for identification, inventory and removal of underwater obstructions as he deems necessary and appropriate.

D. The secretary shall maintain all supervisory and fiscal responsibilities for this Part which are not specifically conferred upon the assistant secretary.

E. The secretary shall perform such other specific functions as may be enumerated or envisioned by this Part.

F. The powers provided in this Part shall be in addition to and shall not limit the powers conferred on the secretary in other provisions of this Title or by any other provisions of any state or federal law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:340 (February 1998).

§319. Office of Conservation—Assistant Secretary

A. The powers of the assistant secretary shall include, without limitation, the power to do the following:

1. negotiate and execute contracts, upon such terms as he may agree upon for underwater obstruction identification, inventory, and removal, and other services necessary to meet the purpose of this Part;

2. publish an annual list of underwater obstruction sites, to include an inventory of the type, size and depth of the obstruction, and any other relevant information which would aid navigation and commercial fishing in the vicinity of the obstruction;

3. prepare, evaluate and approve an annual priority list for underwater obstruction removal;

4. prepare, evaluate and approve a list of contractors acceptable to conduct obstruction removal;

5. administer and manage the Underwater Obstruction Removal Program for identification, inventory, and removal of underwater obstructions in the navigable coastal waters of the state;

6. administer and manage the Underwater Obstruction Removal Fund;

7. perform any function authorized or enumerated by this Part or which is consistent with its purpose.

B. The aforementioned powers shall be in addition to and shall not limit the powers conferred on the assistant secretary in other provisions of this Title or by any other pertinent provision of any state or federal law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:340 (February 1998).

§321. Establishment of the Fund

A. There is hereby established a fund in the custody of the state treasurer to be known as the Underwater Obstruction Removal Fund into which the state treasurer shall, each fiscal year, deposit the revenues received from the collection of the monies enumerated in §321.C, after those revenues have been deposited in the Bond Security and Redemption Fund. Out of the funds remaining in the Bond Security and Redemption Fund, after a sufficient amount is allocated from that fund to pay all the obligations secured by the full faith and credit of the state that become due and payable within each fiscal year, the treasurer shall pay into the Underwater Obstruction Removal Trust Fund an amount equal to the revenues generated as provided for in §321.C. Such funds shall constitute a special custodial trust fund which shall be administered by the secretary who shall make disbursements from the fund solely in accordance with the purposes and uses authorized by this Part.

B. The funds received shall be placed in the special trust fund in the custody of the state treasurer to be used only in

accordance with this Part and shall not be placed in the general fund. The funds shall only be used for the purposes set forth in this Part and for no other governmental purposes, nor shall any portion hereof ever be available to borrow from by any branch of government. It is the intent of the legislature that this fund shall remain intact and inviolate. Any interest or earnings of the fund shall be credited only to the fund.

C. The following monies shall be placed into the Underwater Obstructions Removal Fund:

1. private contributions;
2. interest earned on the funds deposited in the fund;
3. any grants, donations, and sums allocated from any source, public or private, for the purposes of this Part.

D. The monies in the fund may be disbursed and expended pursuant to the authority and direction of the assistant secretary for the following purposes and uses:

1. any underwater obstruction identification, inventory, or removal conducted by the Office of Conservation pursuant to this Part;
2. the administration of this Part by the Office of Conservation in an amount not to exceed \$200,000 in any fiscal year;
3. the payment of fees and costs associated with the administration of the fund and any contract with a private legal entity pursuant to §321;
4. any other expenditures deemed necessary by the secretary to meet the purposes of this Part.

E. The secretary may enter into one or more agreements with a private legal entity to receive and administer the Underwater Obstruction Removal Fund, which shall be an interest bearing trust fund.

F. The funds shall be a special custodial trust fund in the custody of the state treasurer which shall be administered by the secretary (or assistant secretary).

G. The monies in the fund shall be used solely for the purposes of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:340 (February 1998).

§323. Use of the Fund

In addition to the administrative cost provided for herein, the monies in the fund may be disbursed and expended as directed by the secretary (or assistant secretary) for the following purposes:

1. any underwater obstruction identification, inventory, assessment or removal conducted by the department pursuant to this Part;
2. any costs and fees associated with the administration of the fund and any contract with a private legal entity pursuant to R.S. 30:101.7;
3. any costs and fees associated with the recovery of underwater obstruction removal costs;
4. any other expenditures deemed necessary by the secretary to meet the purposes of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:341 (February 1998).

§325. Office of Conservation; Underwater Obstruction Assessments or Removal

A. A contract for obstruction removal shall require a cash bond, performance bond, or other equivalent surety instrument approved by the assistant secretary, and shall require a formal bid process. A project which the assistant secretary has declared, in writing, to be an emergency may employ a written and thoroughly documented informal bidding procedure in which bids are received from at least three bidders. All such contracts shall be reviewed prior to execution by the secretary and at least all informally bid contracts shall be reviewed by the commissioner of the Division of Administration.

B. No party contracting with the department under the provisions of this Part shall be deemed to be a public employee or an employee otherwise subject to the provisions of Chapter 15 of Parts I through IV of Title 42 of the Revised Statutes of 1950.

C. The assistant secretary may enter into contracts for the purposes of underwater obstruction identification, assessments or removal to carry out the provisions of this Part, under the following circumstances:

1. when the assistant secretary has declared an emergency, in writing, he may employ a written and thoroughly documented informal bidding procedure and take informal, detailed written bids from at least three contractors without the necessity of meeting the requirements of the state public bid law. Before execution of a contract, under emergency declaration, a performance bond shall be furnished by the contractor;

2. where no emergency exists, all contracts shall be made pursuant to the state public bid law;

3. all such contracts shall be reviewed prior to execution by the secretary and all informally bid contracts shall be reviewed by the commissioner of the Division of Administration.

D. An underwater obstruction removal assessment shall be performed by a contractor chosen from the list of contractors approved by the assistant secretary or a contractor who submits his credentials to the assistant secretary for approval and is subsequently added to the list.

E. An obstruction removal assessment shall specifically detail site restoration needs and shall provide a description of the obstruction and an estimate of the cost to remove the obstruction and restore the site, in accordance with the standards set forth in LAC 43:XIX.101 et seq.

F. No party contracting with the department under the provisions of this Part shall be deemed to be a public employee or an employee otherwise subject to the provisions of Chapter 15 of Parts I through IV of Title 42 of the Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:341 (February 1998).

§327. Underwater Obstruction Sites

A. If the assistant secretary has been unable to identify the owner of an obstruction prior to removal of the obstruction,

the secretary (or assistant secretary) may expend monies from the fund to remove the obstruction and fully restore the site.

B. The secretary shall be authorized to recover the removal and restoration costs from the owner of the underwater obstruction.

C. The state shall be exempt from the provisions of this Part.

D. The secretary, the assistant secretary, and their agents shall not be liable for any damages arising from an act or omission if the act or omission is part of a good faith effort to carry out the purpose of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:341 (February 1998).

§329. Liability

The secretary or assistant secretary shall not be liable for any damages arising from an act or omission if the act or omission is part of a good faith effort to carry out the purpose of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:342 (February 1998).

§331. Annual Report

A. The assistant secretary shall submit to the Senate and House of Representatives Committees on Natural Resources, before March 1, an annual report that reviews the extent to which the program has enabled the assistant secretary to better protect the navigable waters and commercial fishing of the state and enhance the income of the fund.

B. The assistant secretary's annual reports shall include:

1. the number and location of underwater obstructions which have been identified and inventoried, and a list of those obstructions which have been successfully removed during the preceding year, to include the cost of removal of each;

2. the overall status of implementation of the provisions of this Part relating to the identification, inventory, and removal of underwater obstructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(D) - 4(H) and 30:101.4.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:342 (February 1998).

Warren A. Fleet
Commissioner

9802#011

RULE

Department of Public Safety and Corrections Corrections Services

Death Penalty (LAC 22:I.103)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and in order to implement R.S. 15:567-571, the Department of Public Safety and Corrections, Corrections Services hereby adopts the following regulations dealing with the death penalty.

Title 22 CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose. To set forth procedures to be followed for the lethal injection of those individuals sentenced to death.

B. Responsibility. Assistant secretary/Office of Adult Services and the wardens of the Louisiana State Penitentiary and the Louisiana Correctional Institute for Women.

C. Incarceration Prior to Execution. Male inmates sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female inmates sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the inmate in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female inmates shall be transported to the Louisiana State Penitentiary on the day immediately prior to the execution date.

D. Visits

1. During the final 72 hours before the scheduled execution, the warden may approve special visits for the condemned inmate.

2. All visits will terminate by noon on the day of the execution except visits with a priest, minister, religious advisor, or attorney, which will terminate at the direction of the warden or his designee.

E. Media Access

1. Reporters with the proper credentials may contact the warden's office to request interviews. If the warden, inmate, and attorney (if represented by counsel) consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

F. Pre-Execution Activities

1. The warden shall select appropriate areas to serve as a press room and for any mobile press units.

2. The execution room shall be off limits to unauthorized inmates and employees from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate. The execution room shall also be off limits to the public and press five days before the execution until such time after the execution as the warden deems appropriate.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

G. Execution Time and Place. The execution shall take place at the Louisiana State Penitentiary between the hours of 6 p.m. and 11:59 p.m. [R.S. 15:570(B)].

H. Witnesses

1. The execution shall take place in the presence of the following witnesses:

- a. the warden of the Louisiana State Penitentiary or designee;
- b. the coroner of West Feliciana Parish or deputy;
- c. a physician chosen by the warden;
- d. a competent person selected by the warden to administer the lethal injection; and
- e. a priest, minister, or religious advisor, *if the inmate so requests*.

2. Not less than five, nor more than seven other witnesses are required by law to be present [R.S. 15:570(A)]. These witnesses will be selected as follows:

- a. three witnesses will be members of the news media;
 - i. a representative from the Associated Press;
 - ii. a representative, selected from the media persons requesting to be present, from the parish where the crime was committed; and
 - iii. one representative selected from all other media persons requesting to be present;
 - iv. these witnesses must agree to act as pool reporters for the remainder of the media present and meet with all media representatives immediately following the execution;
- b. the remaining witnesses will be selected by the secretary from persons whom he feels have a legitimate interest in being present;
- c. victim relationship witnesses are authorized to attend the execution [R.S. 15:570(B)];
 - i. the number of victim relationship witnesses may be limited to two. If more than two victim relationship witnesses desire to attend the execution, the secretary is authorized to select from the interested parties the two victim-relationship witnesses who will be authorized to attend;
 - ii. at least 10 days prior to the execution, the secretary shall give written notice of the date and time of execution to the victim's parents, or guardian, spouse, and any adult children who have indicated to the secretary that they desire such notice. The named parties shall be given the option of attending the execution and shall, within three days of their receipt of the notification, notify, either verbally or in writing, the secretary's office of their intention to attend;
 - d. all witnesses must be residents of the state of Louisiana and over 18 years of age; and all must agree to sign the report of the execution [R.S. 15:570-571];
 - e. no cameras or recording devices, either audio or video, will be permitted in the execution room.

I. Procedures

- 1. The witnesses will enter the witness room where they will receive a copy of the inmate's written last statement, if a written statement is issued.
- 2. The inmate will then be taken to the lethal injection room by the escorting officers. Once in the room, the inmate will be afforded the opportunity to make a last verbal statement, if he so desires. He will then be assisted onto the lethal injection table and properly secured to the table by the officers. Once the officers exit the room, the warden will close the curtain to the witness room and signal the I.V. technician to enter. The I.V. technician will appropriately prepare the

inmate for execution and exit the room. The warden will reopen the witness room curtain.

3. The person designated by the warden and at the warden's direction, will then administer, by intravenous injection, a substance or substances, in a lethal quantity, into the body of the inmate until he is deceased.

4. At the conclusion of the execution, the coroner or his deputy shall pronounce the inmate dead. The deceased shall then be immediately taken to an awaiting ambulance for transportation to a place designated by the next of kin, or in accordance with other arrangements made prior to the execution.

5. The warden will make a written report reciting the manner and date of the execution which he and all of the witnesses will sign. The report shall be filed with the clerk of court in the parish where the sentence was originally imposed [R.S. 15:571].

6. No employee, including employee witnesses to the execution, except the secretary or the warden or their designee, shall communicate with the press regarding any aspect of the execution, except as required by law.

AGREEMENT BY WITNESS TO EXECUTION

I, _____, a person of full age and majority, and a citizen of the state of Louisiana, hereby agree to the following conditions precedent to being a witness to the execution of a sentence of death at Louisiana State Penitentiary, Angola, LA:

- 1. I agree that my presence at the execution is voluntary.
- 2. I agree to sign the report of the execution, as required by law.
- 3. I agree to comply with all rules and regulations of the Department of Public Safety and Corrections and the Louisiana State Penitentiary during the course of the proceedings leading up to, during, and after the completion of the execution.
- 4. I agree that I will not electronically record or photograph any activities while I am present in the lethal injection room.
- 5. I agree to submit to a search of my person before and after the execution, if requested to do so by the warden of the Louisiana State Penitentiary.
- 6. If I am a member of the press selected as a witness to the execution, I agree to act as a pool reporter for the media representatives not present at the execution, and I agree to meet with all media representatives present at the penitentiary immediately after the execution.
- 7. If I am an employee of the Department of Public Safety and Corrections, I agree that I will make no public statements about the execution without prior approval of the warden of the Louisiana State Penitentiary.

I have read the above agreement, understand it, and have signed it in the presence of the listed witnesses on this date _____
(Day, Month, Year)

WITNESSES TO SIGNATURE: _____
Selected Witness to Execution

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-15:571.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981), amended by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), LR 18:77 (January 1992), LR 24:342 (February 1998).

Richard L. Stalder
Secretary

9802#003

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Riverboat Gaming—Definitions (LAC 42:XIII.1701);
Licenses and Permits (LAC 42:XIII.2133, 2141, and 2169)

The Gaming Control Board hereby amends LAC 42:XIII.1701, 2133, 2141, and 2169, in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part XIII. Riverboat Gaming

Chapter 17. General Provisions

§1701. Definitions

* * *

Designated Gaming Area—those portions of a riverboat in which gaming activities may be conducted, which shall be determined by measuring the area (in square feet) inside the interior walls of the riverboats, excluding any space therein in which gaming activities may not be conducted, such as bathrooms, stairwells, cage and beverage area, and emergency evacuation routes. Such designated gaming area shall not exceed 60 percent of the total square footage of the passenger access area of the vessel or 30,000 square feet, whichever is lesser, and plans, therefore, shall be submitted to and approved by the board.

* * *

Emergency Evacuation Route—those areas within the designated gaming area of a riverboat which are clearly defined and identified by the licensee as necessary and approved by the United States Coast Guard for the evacuation of passengers and crew from the riverboat, and from which and in which no gaming activity may be conducted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998).

Chapter 21. Licenses and Permits

§2133. License Term and Filing of Application

A. Initial licenses to conduct riverboat gaming operations shall expire five years from the date the license was granted.

B. Each application, including renewal applications, shall be deemed filed with the division when the application form has been received by the division, as evidenced by a signed receipt.

C. Renewal applications for licenses to conduct riverboat gaming operations shall be submitted to the division no later than 120 days prior to the expiration of the license.

D. All renewal applications for permits shall be submitted to the division no later than 60 days prior to the expiration of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998).

§2141. Renewal Applications

A. Applications for renewal of a riverboat gaming license or any permit authorized by the Act shall be made by way of forms prescribed by the division and shall contain all information requested by the division. Prescribed forms shall contain a statement made, under oath, by the applicant, each officer or director of the applicant, and each person with a 5 percent or greater economic interest in the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed.

B. Renewal applications shall further contain:

1. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;
2. a current list of all stockholders of the applicant, if the applicant is a corporation, or list of all partners or persons with a 5 percent or greater economic interest in the applicant;
3. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant or parent corporation of the applicant, if applicable;
4. prior year's corporate or company tax return of the applicant;
5. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

C. The board or division may require an applicant to provide all other such documentation or information as is necessary to determine suitability of the applicant or to discharge their duties under the Act and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998).

§2169. Fees for Issuance of Licenses and Permits

As prescribed pursuant to the Act, R.S. 27:91, the scheduled fees for licenses and permits shall include:

1. the annual fees for gaming employee, manufacturer, supplier, and other permits issued under the provisions of this Chapter shall be as follows:

manufacturer of slot machines	\$5,000
manufacturer of gaming devices or equipment, or equipment other than slot machines	\$2,500
supplier of gaming devices or equipment	\$1,500
supplier of goods or services other than gaming devices or equipment	\$ 250
gaming employee or other permit	\$ 100
permit to conduct racehorse wagering	\$1,000

2. the license fee to conduct gaming activities on a riverboat shall be the total of the following:

- a. \$50,000 for each riverboat for the first year of operation and \$100,000 per year per riverboat thereafter;
- b. an amount equal to 3½ percent of net gaming proceeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 24:344 (February 1998).

Hillary J. Crain
Chairman

9802#001

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Auto Title Companies
(LAC 55:III.1501-1521)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby adopts rules pertaining to the implementation of the law authorizing the appointment of auto title companies who are authorized to process transactions involving the transfer by sale or lease of motor vehicles.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 15. Auto Title Companies

§1501. Definitions

Assistant Secretary—assistant secretary of the Office of Motor Vehicles.

Auto Title Company—any person, firm, association, or corporation which is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles. The term *auto title company* also means any person, firm, association, or corporation which has been licensed in accordance with the provisions of R.S. 32:735 et seq. An auto title company shall not mean an insurance company transferring titles to wrecked vehicles, or a licensed motor vehicle dealer, lending institution, financial institution regulated by state or federal authorities, or a notary, attorney, or individual applicant unless he or it is doing business as an auto title company.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Doing Business as an Auto Title Company—any act by which a person, firm, association, or corporation holds himself or itself out to the public as being engaged in the business of handling transactions involving the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles, but does

not include an attorney, notary, financial institution, lending institution, or insurance company, unless these entities or persons issue temporary registrations.

Person—includes person, corporation, partnership, limited liability company, firm, association, or other legal entity formed to conduct business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998).

§1503. Requirement of License

A. Any person who is engaged primarily in the transfer and recordation of sales, leases, or mortgages of vehicles including, but not limited to, mobile homes, trailers, and motor vehicles shall be licensed by the Department of Public Safety and Corrections, Office of Motor Vehicles prior to conducting any business as an auto title company.

B. A person shall not be required to obtain a license as an auto title company if the person is an insurance company transferring titles to wrecked vehicles, a licensed motor vehicle dealer, a lending institution, or a financial institution regulated by state or federal authorities. Additionally, a notary, attorney, or individual shall not be required to obtain a license as an auto title company unless the person is doing business as an auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998).

§1505. Application Requirements

The application for an auto title company shall be on a form approved by the department, and shall require the applicant to provide the following information:

1. the full legal name of the applicant, including any trade names or aliases;
2. the complete physical and mailing addresses for the applicant's principal place of business, as well as for any location from which the applicant intends to conduct business as an auto title company;
3. the telephone number, including area code, for each place of business or location listed on the application;
4. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of a contact person;
5. if the applicant is not a natural person, the full name, complete physical and mailing addresses, and telephone number of all officers, directors, and managers of the applicant;
6. a signed and dated statement by each natural person listed in the application, stating that they are submitting themselves for review by the department to determine if they are persons of good moral character, and that they authorize the department to check their criminal history; and
7. such other information or documentation that the department may require in order to determine the eligibility of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:345 (February 1998).

§1507. Application Fee

The applicant shall pay an annual license fee of \$200 for one business location. An annual fee of \$50 will be required for each additional business location. The license fee shall be paid by cash, money order, or check, made payable to the Department of Public Safety and Corrections. If payment is made with a check, the check must be written on an account in the same name as the business name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

§1509. Renewal Application

Every license issued shall expire on the first day of June following the year in which such license was issued. The license shall be renewed annually at least 60 days in advance of the expiration date of the license by submitting to the Office of Motor Vehicles an application for renewal, together with the license renewal fee and the surety bond continuation certificate for the renewal period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

§1511. Change of Location or Information

In the event a licensed auto title company changes its business location, or any information provided on the original application or subsequent renewal application changes, the company shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

§1513. Change of Ownership

A. As part of its application for a license, an auto title company shall agree, in writing, to the updating requirements of §1513.

B. In the event there is a change in the ownership of an applicant or a licensed auto title company, the applicant or licensee, as the case may be, shall submit an updated application (DPSMV 1968), an original bond change rider, and the current original auto title company license, if issued. If the surety will not issue a bond rider, then a new bond shall be submitted with the application. If a new bond is required, the old bond shall not be canceled until the department approves the ownership change and the new bond. In the event that the old bond is canceled, the surety on the old bond shall remain liable for any claim against the old bond for any transaction handled by the licensee during the effective dates of the old bond. The bonding requirements of §1513 may be

altered by the department if the department is satisfied that the state and its citizens are adequately protected from any losses resulting from the acts or omissions attributable to the licensee during the effective dates of the bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

§1515. Inspections and Audits

A. As part of its application for a license, an auto title company shall agree, in writing, to the audit and inspection requirements of §1515.

B. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect and audit any and all records or reports of the auto title company. The records and reports shall be made available immediately on request, unless the records or reports are currently in use, but no later than by the close of business following the day the request for the records was made. In lieu of submitting the original records and reports, the auto title company may submit copies to the person requesting the records and reports, at the auto title company's cost, if the person requesting the records and reports is satisfied with the accuracy of the copies.

C. During the normal working hours of the department, or at any other time the licensee is open for business, employees or agents of the department or of the Department of Revenue shall have the right to inspect the premises of any office of the licensee where auto title business is conducted or where the records and reports of the auto title company are kept.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

§1517. License Suspension, Revocation, Cancellation, Nonissuance, or Restrictions

The following actions by a licensee or applicant may subject the licensee or applicant to suspension, revocation, or cancellation of the license by the department. Additionally, the department may impose license restriction as a result of any of the following actions by a licensee or applicant, or the department may deny an application and refuse to issue a license:

1. failure to remit taxes and fees collected from applicants for title transfers;
2. repeated late filings;
3. operating as an auto title company without a license for each location, with an expired license, or without a valid surety bond on file with the Office of Motor Vehicles;
4. issuance of more than one temporary registration (T-marker) to a title applicant, or issuing a T-marker without first collecting all taxes and fees;
5. operating from an unlicensed location;
6. changing the ownership of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;

7. changing the officers or directors of the auto title company and not reporting, in writing, to the Office of Motor Vehicles within 30 days from the date of such change;

8. being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a shortfall in the collection of taxes owed;

9. the forwarding to the Office of Motor Vehicles by an auto title company of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the auto title company had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles;

10. conviction of, or an entry plea of guilty or nolo contendere to any felony; or conviction of, or an entry plea of guilty or nolo contendere to any criminal charge, an element of which is fraud;

11. fraud, deceit, or perjury in obtaining any license issued under this Chapter;

12. failure to maintain, at all times during the existence of the license, all qualifications required for issuance or renewal of a license;

13. any material misstatement of fact, or omission of fact, in any application for the issuance or renewal of a license for an auto title company;

14. the repeated submission of checks which have been dishonored by the bank on which the check was drawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:346 (February 1998).

§1519. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule to the regulation of auto title companies shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed, or written legibly and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted, including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

C. Notice of the order or ruling shall be sent to the person submitting the petition, as well as the persons receiving notice of the petition, at the mailing addresses provided in connection with the petition.

D. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1519.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

§1521. Insufficient Funds Checks

Any auto title company which has submitted three or more checks to the department which have been returned because of insufficient funds in the account within a three-month period shall be required to use a cashier's check, certified check, or money order to pay taxes and fees when submitting any transaction to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:735(B) and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

§1523. Administrative Hearings

Any request for an administrative hearing must be submitted in writing to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, at Box 64886, Baton Rouge, LA 70896-4886, or hand delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, LA. Any request for an administrative hearing must be received by the Department within 30 days of the date the notice of suspension, revocation, cancellation, denial, or other action, was mailed, or hand delivered, as the case may be.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:375(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

§1525. Third Party Checks Prohibited

The Department will not accept a check by a third party on behalf of an applicant for title and/or registration unless the check is submitted by an attorney, notary, motor vehicle dealer, insurance company transferring title to a wrecked vehicle, lending institution, financial institution regulated by state or federal authorities, or a duly licensed auto title company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:375(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:347 (February 1998).

Thomas H. Normile
Undersecretary

9802#023

RULE

Department of Social Services Office of Family Support

Family Independence Temporary Assistance Program (FITAP)—Alien Eligibility (LAC 67:III.1141 and 1143)

The Department of Social Services, Office of Family Support has amended LAC 67:III.1141 and 1143, pertaining to the Family Independence Temporary Assistance Program (FITAP).

Pursuant to provisions of Public Law 104-208, the United States' Omnibus Consolidated Appropriations Act and Public Law 105-33, the Balanced Budget Act of 1997, changes in FITAP regulations concerning the eligibility of certain noncitizens were required.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1141. Eligibility Requirements for Aliens

A.1. - 4. ...

5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act, as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of §204(a)(1)(B) of the INA; or

c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or

classification pursuant to clause (i) of §204(a)(1)(B) of the INA;

9. an alien child or the alien parent of a battered alien as described in §1141.A.8.

B.1. - 2. ...

3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

4. the alien is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

5. the alien is an *Amerasian* immigrant admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in §§101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*; his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*; and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse, if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children.

C. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:48687 et seq., P.L. 104-193, P.L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:280 (May 1988), LR 14:438 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), LR 24:348 (February 1998).

§1143. Income and Resources of Alien Sponsors

In determining eligibility and benefit amount for an alien other than those identified in §1141.A.8 and 9, the income and resources of his/her sponsor and the sponsor's spouse must be considered. The income and resources of an alien sponsor and the sponsor's spouse shall not apply to benefits during a 12-month period for those aliens identified in §1141.A.8 and 9. After a 12-month period, only the income and resources of the batterer shall not apply if the alien demonstrates that such battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the INS, and the agency determines that such battery or cruelty has a substantial connection to the need for benefits. A *sponsor* is defined as any person who executed an affidavit of support pursuant to §213A of the Immigration and Nationality Act on behalf of the alien. The income and resources of the sponsor and the sponsor's spouse shall apply until the alien:

1. achieves United States citizenship through naturalization; or

2. has worked 40 qualifying SSA quarters of coverage, or can be credited with such qualifying quarters, and in the case of any such qualifying quarter creditable for any period

beginning after December 31, 1996, did not receive any federal means-tested public benefit during any such period. In determining the number of qualifying quarters of coverage an alien shall be credited with:

a. all of the qualifying quarters of coverage worked by a parent of such alien while the alien was under age 18; and

b. all of the qualifying quarters worked by a spouse of such alien during their marriage, and the alien remains married to such spouse or such spouse is deceased.

c. No such qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under §1143.A.2.a or b if the parent or spouse of such alien received any federal means-tested public benefit (as provided under §403) during the period for which such qualifying quarter of coverage is so credited. Notwithstanding §6103 of the *Internal Revenue Code* of 1986, the commissioner of Social Security is authorized to disclose quarters of coverage information concerning an alien and an alien's spouse or parents to a government agency for the purposes of this title.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (§402) and 45 CFR 205-206,233-234, P.L. 104-193, P. L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997), LR 24:348 (February 1998).

Madlyn B. Bagneris
Secretary

9802#055

RULE

Department of Social Services Office of Family Support

Family Independence Temporary Assistance
Program (FITAP), FIND Work Program and
Refugee Cash Assistance—Eligibility Conditions
(LAC 67:III.Chapter 11, and §§1503, 2909, 3701-3710)

The Department of Social Services, Office of Family Support has amended the *Louisiana Administrative Code*, Title 67, Part III, Subparts 2, 5 and 7.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, empowered the state to establish a cash assistance program for the expenditure of federal funds for the Temporary Assistance to Needy Families Block Grant. In order to meet the increasing demands of welfare reform, the agency recognizes that technical eligibility determination activities must be reduced in order to facilitate staff's ability to concentrate on employment related activities. These new and revised regulations represent a move toward simplification by the agency.

This rule also strengthens the process of sanctioning for failure to comply with participation requirements in the Family Independence Work Program (FIND Work). Additionally, changes in FITAP regulations necessitate revisions in the Refugee Cash Assistance Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1101. Application Date

All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed application form. The date the application form is received in the parish office shall be considered their date of application. If determined eligible, benefits shall be prorated from the date of application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:8 (January 1984), amended by the Department of Social Services, Office of Family Support, LR 24:349 (February 1998).

§1103. Application Time Limit

The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), be mailed his first payment or notified that he has been found ineligible for a grant by the thirtieth day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:342 (April 1984), amended by the Department of Social Services, Office of Family Support, LR 24:349 (February 1998).

§1105. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The Office of Family Support will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:864 (September 1985), amended by the Department of Social Services, Office of Family Support, LR 24:349 (February 1998).

§1107. Effective Payment Date for AFDC and RCA

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 206.10, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:753 (August 1985), amended LR 11:1078 (November 1985), repealed by the Department of Social Services, Office of Family Support, LR 24:350 (February 1998).

§1111. Protective Payments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369 and F.R. 49:35586 et seq., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:350 (February 1998).

Subchapter B. Conditions of Eligibility

§1115. Resources

Resources are assets or possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. home property, covered by homestead exemption;
2. burial insurance, prepaid funeral plans or prepaid funeral agreements;
3. one burial plot for each member of the assistance unit;
4. personal property;
5. inaccessible resources;
6. life insurance;
7. livestock used for home produce;
8. trust funds if all of the following conditions are met:
 - a. the trust arrangement is unlikely to end during the certification period and no household member can revoke the trust agreement or change the name of the beneficiary during the certification period;
 - b. the trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court-appointed individual who has court-imposed limitations placed on the use of the funds;
 - c. the trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. Exempt trusts established from the household's own funds if the trustee uses the funds only to make investments on behalf of the trust or to pay the education or medical expenses of the beneficiary;
9. disaster payments;
10. energy assistance payments;
11. Agent Orange Settlement Payments income;
12. Housing and Urban Development (HUD) payments and subsidies including HUD community development block grant funds;
13. Indian and Native Claims and Lands Payments received under Public Laws 92-254, 93-134, 94-540, Section 6 of Public Law 94-114 (89 Stat. 577, 25 U.S.C. 459e), tax-exempt portions made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act, and Public Law 98-123 or Public Law 98-124;

14. Women, Infants and Children (WIC) Program benefits;

15. relocation assistance;

16. Supplemental Security nonrecurring lump sum retroactive payments in the month paid or the following month;

17. Wartime Relocation of Civilians Payments;

18. payments to victims of Nazi persecution;

19. real property which the family is making a good faith effort to sell;

20. \$10,000 equity value in one vehicle for each assistance unit;

21. an Individual Development Account (IDA) which is a special account established in a financial institution for the purposes of work-related education or training. Only one IDA per assistance unit is allowed. The amount of the deposits cannot exceed \$6,000, excluding interest, and the balance of the account cannot exceed \$6,000, including interest, at any time. Deposits to the account may be made by the recipient, by a nonprofit organization, or by an individual contributor. The Office of Family Support is not responsible for enforcing stipulations placed on the use of the money by a nonprofit organization or by an individual contributor. Individual Development Account funds may be used only for the following purposes:

a. educational expenses incurred at an accredited institution of higher education;

b. training costs incurred for a training program approved by the agency; and

c. payments for work-related expenses such as clothing, tools or equipment approved by the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:443, R.S. 46:460.4 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 19:1340 (October 1993), LR 24:350 (February 1998).

§1119. Dependent Child Age Limit

A. Under 16 years of age.

B. Sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 24:350 (February 1998).

§1127. Extension of Medicaid Coverage and Work Transition Status

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq., and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:350 (February 1998).

§1131. Ineligibility Based on Lump Sum Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq., and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:350 (February 1998).

§1133. Standard Filing Unit

The mandatory filing unit is being redefined to include the child, the child's siblings (including half and step siblings) and the parents (including legal stepparents) of any of these children. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children. Supplemental Security Income recipients are excluded from this requirement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997), LR 24:351 (February 1998).

§1135. Natural, Nonlegal, Incapacitated Fathers

Repealed.

AUTHORITY NOTE: Promulgated on accordance with 45 CFR 233.10, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:551 (August 1983), repealed by the Department of Social Services, Office of Family Support, LR 24:351 (February 1998).

§1137. Minor Parents

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20 (a)(3)(xviii) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:678 (October 1986), amended by the Department of Social Services, Office of Family Support, LR 22:1233 (December 1996), repealed LR 24:351 (February 1998).

§1139. Alien Sponsors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq., and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:351 (February 1998).

Subchapter C. Need and Amount of Assistance

§1147. Allowance for Cost of Divorce

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 205.52 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Family Services, LR 1:494 (November 1975), repealed by the Department of Social Services, Office of Family Support, LR 24:351 (February 1998).

§1150. Income

Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried

parent, who is in school and working toward a high school diploma, GED, or special education certificate;

3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Supplemental Security Income;
21. Wartime Relocation of Civilians Payments;
22. Developmental Disability Payments;
23. Delta Service Corps post service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;

24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);

25. Radiation Exposure Compensation Payments;
26. payment to victims of Nazi persecution; or
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered support payments.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-93.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:351 (February 1998).

§1151. Lump Sum Payments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206, 233-234 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 24:351 (February 1998).

§1153. Earned Income Tax Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206, 233-234, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January

1982), LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), repealed by the Office of Family Support, LR 24:351 (February 1998).

§1155. Earned Income of Full-Time Students

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369, F.R. 49:35586 et seq., and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1159. Foster Care Payments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20 (a)(3)(vii) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 2:111 (April 1976), repealed by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1161. Training Allowance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206, 233-234, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1165. Gifts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20 (a)(3)(iv)(F) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:279 (April 1989), repealed by the Office of Family Support, LR 24:352 (February 1998).

§1167. Bona Fide Loans

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20 (a)(3)(iv)(B) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:393 (May 1989), repealed by the Office of Family Support, LR 24:352 (February 1998).

§1169. Restricted Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20 (a)(3)(ii)(C) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:321 (May 1983), repealed by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1171. Need Pretest

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206, 233-234 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1174. Flat Grant Amounts

Number of Persons	Flat Grant Amount
1	\$ 72
2	138
3	190
4	234
5	277
6	316
7	352
8	391
9	427
10	462
11	501
12	540
13	580
14	620
15	662
16	707
17	741
18	789
18+	See Note 1

Note 1: To determine the amount for households exceeding 18 persons, the flat grant amount for the number in excess of 18 is added to the flat grant amount for 18 persons.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1175. Payment Amount

The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-248, F.R. 47:41108 et seq., and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:648 (December 1982), amended by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

§1177. Failure to Report Change in Earned Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, P.L. 100-485 (Section 402), 45 CFR 205-206, 233-234, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 24:352 (February 1998).

Subchapter D. Dependent Children of Unemployed Parents

§1179. AFDC-UP Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-485, R.S. 46:238(C) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 16:772 (September 1990), repealed by the Office of Family Support, LR 24:353 (February 1998).

Subchapter F. Assignments of Rights to Support and Cooperation in Establishing Paternity and Securing Support

§1184. Failure to Cooperate with IV-D

A. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

1. failure to keep two consecutive appointments;
2. failure or refusal to cooperate at an interview;
3. failure to appear for, or cooperate during, a court date or genetic testing.

B. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude case closure.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1177 (September 1993), amended by the Office of Family Support, LR 24:353 (February 1998).

Subchapter G. Work Programs

§1186. Failure to Cooperate with FIND Work

Failure to participate in the FIND Work program, without good cause, will result in the removal of the individual's needs from FITAP benefits for a period of three months. At the end of the three-month sanctioning period, if the individual has not complied with FIND Work participation requirements, the FITAP case shall be closed for a minimum of one month, or, until the individual agrees to comply. A second or subsequent failure to cooperate will result in immediate closure for at least one month or until the individual agrees to comply.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

§1187. Work/Win Participation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 224:51, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:464 (July 1983), repealed by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

Chapter 15. General Program Administration

Subchapter B. Recovery

§1503. Recovery of Overpayments

All over issuances must be reported to the Fraud and Recovery Section except:

1. an inadvertent household error claim when the claim is \$250 or less;

2. an administrative error claim when the claim is \$250 or less.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

Subpart 5. Family Independence Work Program (FIND Work)

Chapter 29. Organization

Subchapter B. Participation

§2909. Failure to Participate

Failure to participate in the FIND Work program, without good cause, will result in the removal of the individual's needs from FITAP benefits for a period of three months. At the end of the three-month sanctioning period, if the individual has not complied with FIND Work participation requirements, the FITAP case shall be closed for a minimum of one month or until the individual agrees to comply. A second or subsequent failure to cooperate will result in immediate closure for at least one month or until the individual agrees to comply.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998).

Subpart 7. Refugee Cash Assistance (RCA)

Chapter 37. Application, Eligibility and Furnishing Assistance

Subchapter A. Coverage and Conditions of Eligibility

§3701. Eligibility Determination

Eligibility for Refugee Cash Assistance is generally the same as for the Family Independence Temporary Assistance Program unless otherwise noted. Significant exceptions include the requirements for school attendance, immunizations, and parenting skills, relationship, cooperation with Support Enforcement Services, participation in FIND Work, and the Earned Income Deduction.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400(E), 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

§3704. Application Time Limit and Initial Payment

The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. In order to assure payment is mailed by the thirtieth day, the initial payment shall be issued by the local office on all certifications which pend over 28 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

§3705. Coverage and Conditions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.62(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:401 (May 1984), repealed by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

§3707. Resources

All resources are countable for an RCA household according to LAC 67:III.1115 with the following additional exceptions:

1. \$1,000 per assistance unit;
2. equity value up to \$1,500 in one power driven land conveyance;
3. an RCA household is not allowed an Individual Development Account.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998).

§3708. Income

Income is counted for an RCA household according to LAC 67:III.1150 except that lump sum payments are countable.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998).

§3709. Ineligibility Based on Lump Sum Income

The period of ineligibility based on lump sum income may be recalculated when one or more of the following applies:

1. as a result of yearly increases in the Need Standard, action to adjust the period of ineligibility as a result of Need Standard increases is required only if the former recipient reapplies for assistance during the period of ineligibility;
2. life threatening circumstances arise prior to its expiration which require the assistance unit to expend all or part of the lump sum income in meeting the expenses related to such circumstances;
3. the lump sum or a portion of the lump sum becomes unavailable as a result of circumstances beyond the client's control, such as verified loss or theft, or the person who received the lump sum leaves the home and makes the money unavailable to the remaining assistance unit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998).

§3710. Earned Income Deductions

Each individual in the assistance unit who has earned income is entitled to a standard deduction of \$90.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61 and 233.20(a)(11).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998).

Madlyn B. Bagneris
Secretary

9802#052

RULE

Department of Social Services Office of Family Support

Food Stamps—Alien Eligibility (LAC 67:III.1994 and 1995)

The Department of Social Services, Office of Family Support hereby amends LAC 67:III.1994 and 1995 pertaining to food stamps.

Pursuant to provisions of Public Law 104-208, the United States' Omnibus Consolidated Appropriations Act of 1996 and Public Law 105-33, the Balanced Budget Act of 1997, a change in food stamp policy concerning the eligibility of certain aliens is required. This rule is necessary to effect these mandated regulations.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter K. Action on Households with Special

Circumstances

§1994. Alien Eligibility

A.1. - 2. ...

3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date of §307 of division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by §305(a) of division C of P.L. 104-208);

4. *Cuban* and *Haitian* entrants, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

5. *Amerasian* immigrants admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988.

B. ...

1. veterans who have met the minimum active duty service requirements of §5303 A(d) of Title 38, *United States Code*, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children;

2. active duty personnel (other than active duty for training) and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of §1304 of Title 38, *United States Code*, and unmarried dependent children;

3. ...

C. An alien and/or child of an alien or the alien parent of a child who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien, and the spouse or parent consented to, or acquiesced in, such battery or cruelty is eligible if the agency providing the benefits determines there is a substantial connection between such battery or cruelty and the need for benefits to be provided. The individual who has been battered

or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. Additionally, the alien must have been approved or have a petition pending which contains evidence sufficient to establish:

1. the status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the INA; or
2. the classification pursuant to clause (ii) or (iii) of §204(a)(1)(B) of the INA; or
3. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
4. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of section 204(a)(1)(B) of the INA.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:354 (February 1998).

§1995. Sponsored Aliens

The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, or the alien parent of a battered child.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P.L. 104-208, and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 24:355 (February 1998).

Madlyn B. Bagneris
Secretary

9802#053

RULE

Department of Social Services Office of the Secretary and Office of Family Support

Child Care Assistance Program (LAC 67:I.101-107)
(LAC 67:III.1181, 2913 and 5101-5109)

The Department of Social Services, Offices of the Secretary and Family Support hereby repeals LAC 67:I.101-107, and LAC 67:III.1181; amends LAC 67:III.2913; and adopts LAC III.5101-5109, the Child Care Assistance Program.

Public Law 104-193, as part of the Child Care Block Grant, empowered the state to consolidate all the various child care programs administered by the Department of Social Services

into a single child care program. The program will be administered entirely through the Office of Family Support. This rule consolidates the current Child Care Assistance Program administered through the Office of the Secretary with other existing child care regulations in the Family Independence Temporary Assistance Program, Transitional Child Care, and the Family Independence Work Program.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Reserved. (Previously Child Care Assistance Program)

§101. Eligibility Requirements

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, Parts 255 and 257, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:1440 (November 1993), LR 20:459 (April 1994), LR 20:794 (July 1994), LR 20:899 (August 1994), LR 21:589 (June 1995), LR 23:527 (May 1997), repealed by the Office of the Secretary and Office of Family Support, LR 24:355 (February 1998).

§103. Funding Availability and Waiting Lists

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:1441 (November 1993), LR 20:460 (March 1994), LR 20:900 (August 1994), LR 21:839 (August 1995), repealed by the Office of the Secretary and Office of Family Support, LR 24:355 (February 1998).

§105. Child Care Providers

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1269 (November 1992), LR 19:659 (May 1993), LR 19:784 (June 1993), LR 19:1034 (August 1993), LR 19:695 (November 1993), LR 20:459 (April 1994), LR 21:839 (August 1995), repealed by the Office of the Secretary and Office of Family Support, LR 24:355 (February 1998).

§107. Payment

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992), amended LR 19:695 (November 1993), LR 20:459 (April 1994), LR 21:839 (August 1995), repealed by the Office of the Secretary and Office of Family Support, LR 24:355 (February 1998).

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter E. Transitional Child Care Assistance

§1181. Eligibility, Fees, and Payments

Repealed effective October 1, 1997.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR Parts 255 and 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:238 (March 1990), amended by the Department of Social Services, Office of Family Support, LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:1268 (November 1992), repealed by the Office of the Secretary and Office of Family Support, LR 24:355 (February 1998).

Subpart 5. Family Independence Work Program

Chapter 29. Organization

Subchapter C. Activities and Services

§2913. Support Services

Support services include child care, transportation, and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Effective October 1, 1997, child care support services and payments are administered through the Child Care Assistance Program, LAC 67:III. Subpart 12.

2 - 3. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR Parts 250, 255, R.S. 46:456 and 457, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), amended by the Office of the Secretary and Office of Family Support, LR 24:356 (February 1998).

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Program

§5101. Authority

The Child Care Assistance Program is established effective October 1, 1997 and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 24:356 (February 1998).

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program, as determined by the case manager, are eligible.

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration and guaranteed entry into the child care system for 24 months from termination of the cash payment, must meet the following eligibility criteria:

1. A household consists of a case head, that person's spouse, all children under the age of 18 who are dependent on the case head and/or spouse, and the parent(s) of dependent children if the parent(s) lives in the home. The household must reside in Louisiana to be eligible for child care assistance.

2. The household includes a child in need of child care services who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision.

3. The child must customarily reside at least one-half of the time with the person who is applying for child care services

and who is employed or attending a job training or educational program that is legally authorized by the state. The case head, that person's spouse, and any parents of dependent children, if the parent(s) lives in the household, must be employed or in training, unless disabled as established by receipt of SSA, SSI, worker's compensation, or other disability benefits.

4. Household income does not exceed 85 percent of the state median income for a household of the same size. *Income* is defined as the gross earnings of the case head, that person's spouse, and any parents of dependent children, if the parent(s) lives in the household, from all sources of employment, and the following types of unearned income: Social Security benefits, veterans' benefits, retirement benefits, disability benefits, child support and/or alimony, unemployment compensation benefits, worker's compensation, and Supplemental Security Income of all household members.

5. Noncitizens who are *qualified aliens*, as defined in LAC 67:III.1141 and 1143, may be eligible.

6. The family requests child care services, provides the information necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the state.

7. Applicants must provide verification to establish eligibility. Verification shall include Social Security cards for all household members, birth certificates for all children, proof of all household income, and proof of the hours of employment or training for which child care services are required.

C. Eligible cases are assigned a certification period of up to 12 months. The household is required to report any changes that could affect eligibility or benefit amount within 10 days of knowledge of the change. Failure to report a change that affects eligibility or benefit amount can result in action to recover ineligible benefits.

D. Recipients will be disqualified in all cases in which the recipient has received child care benefits for which he is ineligible; the unrecovered amount of such benefits is at least \$200; and the recovery account was established after September 30, 1994. The disqualification shall be for a period of months equal to the unrecovered amount divided by the total estimated monthly benefit amount for which the household would otherwise be eligible. If the recipient is currently receiving benefits, the case shall be closed and the recipient may not reapply during the disqualification period. If the recipient is not receiving benefits and subsequently reapplies and is found eligible, the application is denied. The recipient may not be certified during the disqualification period.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 24:356 (February 1998).

§5105. Funding Availability

Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis. The number of children who can

be served by the Child Care Assistance Program is limited by the amount of funding available.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 24:356 (February 1998).

§5107. Child Care Providers

A. The parent or guardian is assured freedom of choice in selecting from a variety of child care providers, including center-based child care, family day care homes, in-home child care, and public and nonpublic BESE-regulated schools which operate kindergarten, prekindergarten, and/or before and after school care programs. The parent or guardian will be afforded the freedom to select the child care provider of his choice.

B. Family day care home providers must verify that they are at least 18 years of age, provide verification of Social Security number and residence, and meet all registration requirements to be eligible for participation. Family day care home providers who provide child care only to children related to them need only apply for registration as family day care homes, but must meet registration requirements within one year.

C. In-home child care providers must verify that they are at least 18 years of age and provide verification of their Social Security number and residence to be eligible for participation.

D. Under no circumstances can the following be considered eligible child care providers:

1. members of the child's household; or
2. the child's parent or guardian, regardless of whether that individual lives with the child; or
3. Class B child care centers; or
4. persons who have been convicted of a felony or of an offense involving a juvenile victim or who reside with a person who has been convicted of such an offense.

E. Providers may be disqualified from further participation in the program if the department determines that a condition exists which threatens the physical or emotional health or safety of any child in care, as, for example, where a complaint of child abuse or neglect against a provider or other person with access to children in care has been validated by authorities.

Providers shall certify that neither they, nor any person employed by or residing with them, has been the subject of a validated complaint of child abuse or neglect; nor have they, or any person employed by or residing with them, been convicted of a felony or of any offense involving a juvenile victim. They shall further certify that they have requested a criminal background check from the Louisiana Office of State Police to verify this information, with respect to the provider and employees, and shall submit proof of having done so before being certified as an eligible provider.

F. A quality incentive will be paid to each child care provider who achieves and maintains National Association for the Education of Young Children (NAEYC) accreditation. The incentive will be paid once each calendar quarter, and will be equal to 10 percent of all payments received by that provider from the certificate portion of the Child Care and Development Block Grant for services provided during the prior calendar quarter.

G. Funds in the form of scholarships will be granted to those child care providers who demonstrate an intention to attain appropriate training in Early Childhood Development.

H. The Child Care Assistance Program will provide cash assistance to child care providers to pay for repairs and improvements that are necessary to comply with DSS licensing or registration requirements.

1. The program will pay for one-half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider:

Number of Children	Maximum Grant
Up to 20	\$ 500
21-40	\$1,000
41-60	\$1,500
61-80	\$2,000
81-100	\$2,500
101-120	\$3,000
Over 120	\$3,500

2. A provider can receive no more than one such grant in any state fiscal year. To apply, the provider must submit an application form, along with verification that the repair or improvement is needed to meet DSS licensing or registration requirements and two written estimates of the cost of the repair or improvement.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 24:357 (February 1998).

§5109. Payment

A. Each non-FITAP household shall contribute toward the payment of child care costs based on the size of the household and household income. The sliding fee scale is as follows:

SLIDING FEE SCALE FOR CHILD CARE ASSISTANCE RECIPIENTS

Number in Household	2	3	4	DSS Percent	Client Percent
Monthly Household Income	0-884	0-1110	0-1337	100%	0%
	885-1162	1111-1448	1338-1736	90%	10%
	1163-1440	1449-1787	1737-2136	70%	30%
	1441-1718	1788-2126	2137-2535	50%	50%
	1719-1996	2127-2465	2536-2935	30%	70%
	Above 1996	Above 2465	Above 2935	0%	100%

Number in Household	5	6	7	DSS Percent	Client Percent
Monthly Household Income	0-1564	0-1790	0-2017	100%	0%
	1565-2024	1791-2311	2018-2503	90%	10%
	2025-2484	2312-2832	2504-2989	70%	30%
	2485-2944	2833-3353	2990-3475	50%	50%
	2945-3405	3354-3874	3476-3962	30%	70%
	Above 3405	Above 3874	Above 3962	0%	100%

Number in Household	8	9	10	DSS Percent	Client Percent
Monthly Household Income	0-2244	0-2470	0-2697	100%	0%
	2245-2695	2471-2887	2698-3079	90%	10%
	2696-3147	2888-3304	3080-3462	70%	30%
	3148-3598	3305-3721	3463-3844	50%	50%
	3599-4050	3722-4139	3845-4227	30%	70%
	Above 4050	Above 4139	Above 4227	0%	100%

Number in Household	11	DSS Percent	Client Percent
Monthly Household Income	0-2924	100%	0%
	2925-3271	90%	10%
	3272-3619	70%	30%
	3620-3967	50%	50%
	3968-4315	30%	70%
	Above 4315	0%	100%

B. The number of hours authorized is based on the lesser of the number of hours the child is actually in care; or the number of hours the case head, that person's spouse or parent with the least number of hours of work, training, or school needs child care in order to work or attend a job training or educational program; plus allowable commuting time.

C. Payments are based on the number of hours, as determined in §5109.B, paid according to the provider's actual charges, up to the following Standard Maximum Rate Schedule:

CENTER-BASED CARE

	Regular Care	Special Needs Care
Full Day	\$13.00	\$16.25
Half Day	\$6.50	\$8.13
Quarter Day	\$3.25	\$4.06

**ALL OTHER CATEGORIES OF CARE
UNDER AGE 1**

	Regular Care	Special Needs Care
Full Day	\$11.00	\$13.75
Half Day	\$5.50	\$6.88
Quarter Day	\$2.75	\$3.44

AGE 1 AND OLDER

	Regular Care	Special Needs Care
Full Day	\$10.00	\$12.50
Half Day	\$5.00	\$6.25
Quarter Day	\$2.50	\$3.13

D. The payment amount for each month is a percentage, as shown in §5109.A, multiplied by the number of authorized hours and the standard rate, as determined in §5109.B and C.

E. Payment, as calculated in §5109.D, is made on a monthly basis, following the month in which services are provided, to the eligible child care provider selected by the parent as defined in §5107.

F. Payment will not be made for more than 10 days of absence by a child in a month. Payment will not be made for an extended closure by a provider of more than five consecutive days in any calendar month.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary and Office of Family Support, LR 24:357 (February 1998).

Madlyn B. Bagneris
Secretary

9802#057

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Mullet Harvest—Proof of
Income (LAC 76:VII.343)

The Wildlife and Fisheries Commission hereby amends LAC 76:VII.343 relative to proof of income for the harvest of mullet in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§343. Harvest of Mullet

* * *

E. Permits

* * *

2. No person shall be issued a license or permit for the commercial taking of mullet unless that person meets all of the following requirements:

a. the person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993;

b. the person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant, using any of the methods listed below:

i. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS);

ii. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been filed and stamped "received" at a local IRS office, accompanied by a signed cover letter acknowledging receipt by the IRS;

iii. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.) along with an IRS-stamped transcript and IRS-signed cover letter. Transcripts are available at local IRS offices;

c. the Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:333(D)(1)(b);

d. the person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:325.1 and R.S. 56:333.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1420 (December 1992), amended LR 21:37 (January 1995), LR 22:236 (March 1996), LR 24:359 (February 1998).

Thomas M. Gattle, Jr.
Chairman

9802#034

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Saltwater Commercial Rod and Reel
License—Proof of Income (LAC 76:VII.405)

The Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby amends LAC 76:VII.405 relative to proof of income for the saltwater commercial rod and reel license, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fishing and Other Aquatic Life

Chapter 4. License and License Fees

**§405. Saltwater Commercial Rod and Reel License;
Proof of Income**

A. Each applicant shall have derived more than 50 percent of his earned income from the legal capture and sale of seafood species in at least two of the three years, 1995, 1994, and 1993.

B. Proof of such income for at least two of the three years 1995, 1994, and 1993 shall be provided by the applicant, using any of the methods listed below:

1. Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS) and a copy of his state tax return, provided applicant was required to file.

2. Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been filed and stamped "Received" at a local IRS office, accompanied by a signed cover letter acknowledging receipt by the IRS and a copy of his state tax return, provided applicant was required to file.

3. Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.) along with an IRS-stamped transcript and IRS-signed cover letter and a copy of his state tax return, provided applicant was required to file. Transcripts are available at local IRS offices.

C. The Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility, as defined by R.S. 56:305(B)(14)(b).

D. If the applicant was not required to file a state tax return, the applicant shall provide a notarized affidavit certifying that he was not required to file a state tax return.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:13.1.D.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:237 (March 1996), amended LR 24:359 (February 1998).

Thomas M. Gattle, Jr.
Chairman

9802#033

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Spotted Seatrout Management Measures
Proof of Income (LAC 76:VII.341)**

The Wildlife and Fisheries Commission hereby amends the rule for proof of income for spotted seatrout.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

* * *

4. Permits

* * *

b. No person shall be issued a license or permit for the commercial taking of spotted seatrout unless that person meets all of the following requirements:

i. the person shall provide proof that he purchased a valid Louisiana commercial saltwater gill net license in any two of the years 1995, 1994, and 1993;

ii. the person shall show that he derived more than 50 percent of his earned income from the legal capture and sale of seafood species in any two of the years 1995, 1994, and 1993. Proof of such income shall be provided by the applicant using any of the methods listed below:

(a). Method 1. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a

copy of his federal income tax return, including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been certified by the Internal Revenue Service (IRS);

(b). Method 2. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a copy of his federal income tax return including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.), which has been filed and stamped "Received" at a local IRS office accompanied by a signed cover letter acknowledging receipt by the IRS;

(c). Method 3. Applicant shall submit to the Department of Wildlife and Fisheries (Licensing Section) a signed copy of his federal tax return including all attachments (e.g., Schedule C of Federal Form 1040, Form W-2, etc.) along with an IRS stamped transcript and IRS signed cover letter. Transcripts are available at local IRS offices;

iii. the Socioeconomic Section of the Department of Wildlife and Fisheries, Office of Management and Finance, will review the submitted tax return information and determine applicant's eligibility as defined by R.S. 56:325.3 D(1)(b);

iv. the person shall not have applied for or received any assistance pursuant to R.S. 56:13.1(C);

v. the applicant shall not have been convicted of any fishery-related violations that constitute a class three or greater violation.

c. No person shall receive more than one permit or license to commercially take spotted seatrout.

d. Any person convicted of any offense involving fisheries laws or regulations shall forfeit any permit or license issued to commercially take spotted seatrout and shall be forever barred from receiving any permit or license to commercially take spotted seatrout.

5. Each spotted seatrout permit holder shall, on or before the tenth of each month of the open season, submit an information return to the department on forms provided or approved for this purpose, including the pounds of spotted seatrout taken commercially during the preceding month and the commercial dealers to whom these were sold, if sold. Monthly reports shall be filed even if catch or effort is zero.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a); 56:325.3; and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998).

Thomas M. Gattle, Jr.
Chairman

9802#036

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Marketing Market Commission

Sweet Potato Logo
(LAC 7:V.2101-2115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Marketing, Market Commission proposes to adopt regulations for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes in the state of Louisiana through the creation, licensing, and use of a Louisiana sweet potato logo. These rules are enabled by R.S. 3:413 and 415. No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 21. Louisiana Sweet Potato Logo

§2101. Statement of Authority and Purpose

The state Market Commission hereby adopts LAC 7:V.Chapter 21 under the authority of R.S. 3:415 for the purpose of advertising, publicizing and promoting the increased production and packaging of Louisiana sweet potatoes, in the state of Louisiana, through the creation, licensing and use of a Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2103. Definitions

The terms defined in this Section have the meaning given to them herein, for purposes of LAC 7:V.Chapter 21, except where the context expressly indicates otherwise.

Commission—the Louisiana State Market Commission.

Commissioner—commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Farm—any area of land used to grow and package Louisiana sweet potatoes.

Louisiana Sweet Potato—any sweet potato grown and packaged in the state of Louisiana.

Louisiana Sweet Potato Logo—a distinctive mark, motto, device, symbol or emblem which may be affixed to Louisiana sweet potatoes or the shipping crates, boxes or other packaging containing the Louisiana sweet potatoes so that Louisiana sweet potatoes may be identified as such in the market, and their origin vouched for.

Person—any individual, corporation, partnership, association or other legal entity.

Producer—any person who grows or packs Louisiana sweet potatoes.

Promote—includes the use of the Louisiana sweet potato logo on packages, documents, promotional materials and business correspondence to further enhance the marketability of Louisiana sweet potatoes.

Stop Order—a written, printed or stamped order issued by the department preventing a person from shipping or selling sweet potatoes under the Louisiana sweet potato logo or removing them from the premises where they are found in crates, boxes or other packaging marked with the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2105. Development, Adoption and Registration of an Official Logo for Louisiana Sweet Potatoes

A. The commission may develop and adopt a Louisiana sweet potato logo to be placed on boxes, crates, or other packages to certify that the sweet potatoes in the boxes, crates or other packages are Louisiana sweet potatoes.

B. Upon adoption of a Louisiana sweet potato logo the commission may register the logo as a trademark or a certification mark with the state of Louisiana, U.S. Government or any other governmental or private entity where necessary or proper to protect the logo's status as a trademark or as a certification mark.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2107. Licensing Eligibility for Use of Logo

A. The commission may license a producer to use the Louisiana sweet potato logo if the producer meets the following requirements:

1. the producer makes written application to the commission for a license, on a form provided by the department;

2. the producer pays the license fee;

3. the producer agrees in writing to abide by LAC 7:V.Chapter 21 regarding the use of the Louisiana sweet potato logo;

4. the producer agrees in writing to apply the Louisiana sweet potato logo only on crates, cartons or other forms of packaging containing sweet potatoes grown and packed entirely in the state of Louisiana.

B. No sweet potatoes grown in any other state shall qualify for packing and shipping under the Louisiana sweet potato logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2109. Use and Transferability of Logo

A. The Louisiana sweet potato logo shall be reserved for the exclusive use of the department in promoting, advertising and marketing Louisiana sweet potatoes and for each producer licensed to use the logo.

B. The Louisiana sweet potato logo shall not be placed on any box, crate or other package containing sweet potatoes unless the box, crate or other package contains only Louisiana sweet potatoes.

C. No producer licensed to use the Louisiana sweet potato logo shall sell, assign or transfer the use of the Louisiana sweet potato logo to any other person without the specific written permission of the commission.

D. No person shall use the Louisiana sweet potato logo for any purpose unless that person is authorized in writing by the commission to do so or unless that person is a producer licensed by the commission to use the logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2111. Fees and Costs

A. Each producer applying for and receiving an initial license to use the logo shall pay a fee of \$25 before being licensed.

B. Each producer, thereafter, shall pay an annual renewal fee of \$25 on or before June 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2113. Enforcement

A. The department or its authorized representative shall have the right to enter any Louisiana sweet potato farm and any packaging plant to inspect that facility and any records pertaining to the growing, packaging or sale of any Louisiana sweet potato by any producer licensed under LAC 7:V.Chapter 21.

B. The department or its authorized representative may, while enforcing the provisions of LAC 7:V.Chapter 21, issue and enforce a written, printed or stamped stop order to prevent the use of the Louisiana sweet potato logo on any sweet potatoes to be sold, shipped or removed from the premises where they are found if:

1. the authorized representative of the department has been refused the right to enter the premises where the sweet potatoes are being grown and packaged;

2. the sweet potatoes do not meet the department's inspection and grading standards;

3. the licensed sweet potato producer is in violation of LAC 7:V.Chapter 21;

4. the sweet potatoes in any box, crate or package carrying the Louisiana sweet potato logo are not entirely Louisiana sweet potatoes; or

5. any person is found to be using the Louisiana sweet potato logo either without being a licensed producer or without written authorization from the commission to use the logo.

C. Upon issuance of a stop order the department may:

1. order that the sweet potatoes may not be sold, shipped or removed from the premises at the time the stop order is issued; or

2. prohibit the use of the Louisiana sweet potato logo on any sweet potato subject to the stop order, or on any crate, box or package containing such sweet potatoes when the sweet potatoes are sold, shipped or moved from the premises.

D. The stop order may be released by the department when:

1. proof of compliance with LAC 7:V.Chapter 21 is furnished to the department if the stop order was issued because of a violation of LAC 7:V.Chapter 21;

2. the authorized representative of the department has been allowed to enter the premises where the sweet potatoes are grown or packaged and inspect those sweet potatoes or the records if the stop order was issued based on refusal to allow entry or inspection;

3. the department determines that circumstances warrant the release of the stop order, upon such terms and conditions that the department deems necessary or proper.

E. Any person aggrieved by the issuance of a stop order by the department may request an administrative adjudicatory hearing to contest the validity of the stop order by making a written request, within five calendar days, to the department for such a hearing. Within 10 calendar days after the department receives the written request an administrative adjudicatory hearing shall be held by the department in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

§2115. Penalty for Violations; Injunctive Relief; Costs; Notification

A. Whoever violates the use of the Louisiana sweet potato logo adopted pursuant to R.S. 3:415 or LAC 7:V.Chapter 21 may be fined not less than \$25 nor more than \$500 for each violation or may have his license to use the Louisiana sweet potato logo suspended, revoked or placed on probation or both.

B. Each violation of LAC 7:V.Chapter 21, any stop order or other orders issued by the department or the commission in the enforcement of LAC 7:V.Chapter 21 and every day of a continuing violation shall be considered a separate and distinct violation chargeable under LAC 7:V.Chapter 21.

C. The commission may impose any or all of the penalties stated in §2115.A and B after an adjudicatory hearing held in accordance with the Louisiana Administrative Procedure Act. Any such adjudicatory hearing may be presided over by a hearing officer appointed by the commissioner. The commission may delegate to the Louisiana Sweet Potato Advertising and Development Commission the authority to conduct any such adjudicatory hearing, to make findings of

fact and conclusions of law and to impose penalties for any violation.

D. The commission, through the commissioner, may apply for injunctive relief restraining violations of the Louisiana sweet potato logo or violations of LAC 7:V.Chapter 21 or institute necessary actions for failure to pay accounts due the commission. The person condemned in any such proceeding shall be liable for the costs of court and for any additional costs incurred by the department or the commission in gathering the necessary evidence, including reasonable attorney fees and expert witness fees.

E. If any Louisiana sweet potatoes inspected by the department are the subject of a stop order or if any producer's license to use the Louisiana sweet potato logo has been suspended, revoked or placed on probation then notification of such action and the reasons therefore shall be sent, by the department, to any and all appropriate public entities or agencies who may be affected by the stop order or by the suspension, revocation or probation of the producer's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:413 and 415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Marketing, Market Commission, LR 24:

All interested persons may submit written comments on the proposed rules through March 27, 1998, to Bryce Malone, Department of Agriculture and Forestry, Box 3334, Baton Rouge, LA 70821-3334 or delivered to 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sweet Potato Logo**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation cost is approximately \$1,250. There will be no costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The department will collect approximately \$1,250 per year from a \$25 license fee imposed on approximately 50 Louisiana sweet potato producers for use of this logo.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated cost to sweet potato producers will be approximately \$1,250. There will be an economic benefit derived from producers using the logo because producers using the logo will be able to maintain maximum market price for their product. There is no estimate at this time of the economic benefit to sweet potato producers; currently, Louisiana-produced sweet potatoes receive 15-20 percent higher prices for the same grade as producers in other states. The use of this logo will help maintain this price margin by properly identifying Louisiana produced and packed sweet potatoes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on intrastate competition and employment; and Louisiana should maintain an interstate competitive edge.

Skip Rhorer
Assistant Commissioner
9802#015

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Drug Testing of Elected Officials
(LAC 52:I.101 and Chapter 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics has initiated rulemaking procedures to promulgate rules for the random drug testing of elected officials as required by Section 1116.1 of the *Code of Governmental Ethics* (R.S. 42:1116.1).

No preamble to the proposed rules has been prepared.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

* * *

Collection Agency—a person selected by the board, which has collection sites throughout the state of Louisiana.

* * *

Designated Representative—a board-appointed member of the staff of the Ethics Administration Program, whose primary responsibility includes overseeing the implementation of the program to enforce the random drug testing of elected officials.

* * *

Random Number—the number assigned to the elected official, which ensures the confidentiality of the testing process.

Random Number Selector—a person selected by the board, responsible for the selection of those elected officials subject to the random drug testing.

Random Process—a generally accepted method to ensure that the elected officials are chosen by their random numbers in an unsystematic manner.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:

Chapter 17. Random Drug Testing for Elected Officials

§1701. General

The board, pursuant to R.S. 42:1116, shall develop and administer a program to conduct random drug testing on

elected officials by means of a urine specimen collected, stored and transported in a manner effective in detecting and deterring illegal drug use. The board shall adhere to the statutory definitions and guidelines in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950 to implement the provisions of the random drug testing for elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1703. Designated Representative; Duties and Responsibilities

A. The designated representative acts as the liaison between the board and the collection agency and the certified laboratories, and such duties shall be carried out as directed in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. The designated representative shall provide the collection agency with a list of the names of the elected officials selected by the random number selector, the elected officials' random numbers and the elected officials' mailing addresses.

C. The designated representative shall ensure the confidentiality of the testing of the elected official.

D. Upon receipt of the results from the medical review officer, the designated representative shall provide the tested elected official with a certified copy of the results of the drug test.

E. Upon receipt of the medical review officer's analysis and confirmation of the positive result of the test, the designated representative shall submit the result of the test to the board for action pursuant to R.S. 42:1141(B)(3).

F. Upon request by the medical review officer, the designated representative shall obtain the medical records of the elected official whose test results are positive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1705. Random Selection of Elected Officials

Each elected official shall be assigned a number by the designated representative. This number is utilized in the random selection process to ensure that the selection process and test results are kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1707. Selection Process; Random Number Selector

A. The designated representative shall supply the random number selector with the random numbers that have been assigned to the elected officials. The random number selector shall select by a random process a percentage of the random numbers, as determined by the board.

B. The random number selector does not, at any time, have access to the corresponding names of the elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1709. Selection Process; Percentage

The board, at its October meeting of each calendar year, or the next subsequent meeting if no meeting is held in October, shall determine the percentage of elected officials to be chosen by a random process for drug testing in the subsequent calendar year. The board may apply the following guidelines:

1. 10 percent of all elected officials the first year; and
2. 5 percent increase every year thereafter, with a maximum of 50 percent of all elected officials to be selected to submit to a drug test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1711. Collection Agency; Duties and Responsibilities

A. The board shall select a collection agency that utilizes the National Institute on Drug Abuse (NIDA) guidelines proscribed in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. The random numbers and each corresponding name are submitted to the collection agency, who then provides notice to the elected officials of their duty to submit a sample to a designated collection agency.

C. The collection agency shall, by certified mail, return receipt or by a commercial delivery service which provides for a signed receipt, notify the selected elected official of his duty to report to a designated collection site within 24 hours to submit a sample.

D. The collection agency shall maintain records evidencing when the notice to the elected official to report to a collection site was forwarded by the collection agency and when it was received by the elected official. The collection agency shall also maintain a record as to the date and time when the elected official reported to the collection site.

E. The collection agency shall provide the designated representative with the names of the elected officials who failed to report to the collection site within the time required.

F. The collection agency shall provide the designated representative with the name of any elected official who fails to report to the collection site within five days of the date the notice was forwarded to the elected official.

G. The collection agency shall insure the transportation of the collected sample to a NIDA-certified or College of American Pathologists-Forensic Urine Drug Testing (CAP-FUDT)-certified laboratory to be analyzed according to Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

H. The collection agency shall provide a certified copy to the designated representative evidencing the chain of custody of each sample from collection of the sample to its receipt by the certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1713. Collection Agency; Confidentiality

The collection agency and its employees have a duty to conduct such collecting, storing and transporting of the sample in a confidential manner, respecting the privacy rights of the elected official. The contract between the board and the

collection agency shall prescribe penalties if the collection agency breaches the required confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1715. NIDA-Certified and CAP-FUDT-Certified Laboratories

A. The board shall maintain a list of laboratories that are certified by either NIDA or CAP-FUDT as provided by the Department of Health and Hospitals and to which the sample is submitted for testing in accordance with the guidelines in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. Should the initial test of the sample of the elected official produce a negative result, the laboratory shall submit that result to the medical review officer who shall forward it to the designated representative for further processing and dissemination to the elected official.

C. Should the initial test of the sample of the elected official produce a positive result, the laboratory shall conduct a confirmatory test on the remainder of the split sample. The result elicited from the confirmatory test is submitted to the medical review officer for review.

D. The certified laboratory shall provide a certified copy to the designated representative evidencing the chain of custody of each sample from receipt of the sample by the certified laboratory to its analyzation by the laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1717. Second Separate Test

A. Should the initial and confirmatory test illicit positive results, as well as confirmation of the positive test results by the medical review officer, the board shall issue a subpoena for the appearance of the elected official at a collection site not less than six months after the designated representative received confirmation from the medical review officer of the positive results of the initial and confirmatory tests.

B. The provisions of LAC 52:I.Chapter 17 and NIDA guidelines as set forth in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950 shall be utilized in collecting, storing, transporting and analyzing the second separate sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1719. Elected Officials; Duties and Rights

A. Upon receipt of notification, the elected official has a duty to report to the designated collection site within 24 hours to submit a sample for testing.

B. The elected official shall not avoid receipt of the notice. If the elected official does not report to a collection site within five days of the postmark of the notice mailed to the elected official, such action constitutes a failure by the elected official to submit to the drug test as requested by the board.

C. The elected official has a right to receive from the designated representative a copy of the results of the test and

the confirmation by the medical review officer, if necessary.

D. The elected official must, at the request of the designated representative, authorize the release of his medical records to the designated representative for review by the medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1721. Good Cause for Refusal to Report to Collection Site

A. Definition. For the purposes of §1721, the following definitions shall apply:

Good Cause—any reason, in the considered judgment of the board, beyond the control of the elected official that directly prevents the elected official from reporting to the collection site within 24 hours of receipt of the notice.

B. Should the board determine that the elected official had good cause which prevented him from reporting to the collection site within 24 hours from receipt of the notice, the board shall require that the elected official's random number be submitted to the collection agency and the elected official shall appear at a collection site not less than six months after the elected official initially failed to report to the collection agency.

C. Should the board determine that the elected official did not have good cause to prevent him from reporting to the collection site within 24 hours from receipt of the notice, such failure to report to the collection site shall constitute a refusal to submit to a drug test as provided in R.S. 42:12116.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

§1723. Medical Review Officer; Duties and Responsibilities

A. The board shall appoint a medical review officer, who is responsible for reviewing the positive results attained by the certified laboratory, using generally accepted medical practices in reviewing the test results.

B. The medical review officer is supplied with only the random number to identify the sample results that he reviews.

C. The medical review officer provides a report to the designated representative containing his analysis and findings.

D. The medical review officer may require the designated representative to obtain the medical records of the elected official who tested positive if the medical records could supply any possible medical reasons to explain the positive results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:

Interested persons may direct their comments to R. Gray Sexton, Board of Ethics, 8401 United Plaza Boulevard, Suite 200, Baton Rouge, LA 70809-7017, telephone (504) 922-1400, until March 12, 1998.

In accordance with R.S. 49:953(A), if a public hearing is requested within 20 days from the publication of the proposed rule, one will be scheduled to be held by the Board of Ethics at

8401 United Plaza Boulevard, Baton Rouge, LA 70809-7017. Contact the office of the Ethics Administration at (504) 922-1400 on the possible date.

R. Gray Sexton
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Drug Testing of Elected Officials**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this proposed rule will result in increased expenditures of approximately \$59,297 for FY 99 and \$61,973 for FY 2000. One additional employee will be hired to implement the program. It is anticipated that 10 percent of the elected officials (3,893) will be tested in FY 99. In subsequent years, the percentage of elected officials tested each year will increase by 5 percent, with a cap of 50 percent.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This proposed rule is not expected to have any fiscal impact on revenue collections of the state or local governmental units. However, if an elected official tests positive for the use of illegal drugs or if he refuses to submit to a drug test when requested, the board may censure the elected official, or impose a fine of not more than \$10,000, or both.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

R. Gray Sexton
Ethics Administrator
9802#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Noncompetitive Classes

The Civil Service Commission will hold a public hearing on March 4, 1998 to consider the proposed adoption of Civil Service Rule 7.20(f). The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, Department of Transportation and Development Annex Building, 1201 Capitol Access Road, Baton Rouge, LA. The following will be considered at the meeting:

Proposed Rule

7.20 Noncompetitive Classes

(a) - (e) ...

(f) The director may waive competitive appointment requirements for out-of-state vacancies and approve the noncompetitive appointment of an applicant to a position

provided such applicant meets the minimum qualification requirements for the position.

Explanation

This proposed rule is designed to help agencies fill out-of-state vacancies. This system of recruiting, applying, testing, and certifying is designed to fill in-state vacancies. In order to use this rule, agencies should request prior approval. Refer questions to Bill Rowe, Chief of Examining, at (504) 342-8536.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to Allen H. Reynolds, Director, State Civil Service, Box 94111, Baton Rouge, LA 70804-9111. Contact this office prior to the meeting if any accommodations are needed.

Allen H. Reynolds
Director

9802#032

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 741—Course Credit
for Private Music Lessons**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend Bulletin 741, Credit for Strings Lessons.

2.105.24 Approval by the State Department of Education shall be granted before private piano and strings instruction can be given for credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., April 10, 1998 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 741—Course Credit for
Private Music Lessons**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost to state governmental units is \$100 to update and disseminate the changes to Bulletin 741.
BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$40.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be costs to students (parents) who choose to participate in private string lessons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn Langley
Deputy Superintendent
Management and Finance
9802#076

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Nonpublic Schools

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend Bulletin 741, Louisiana Handbook for School Administrators, Nonpublic. The majority of the changes are for clarity and flexibility, and are editorial in nature. A complete text of the changes is as follows:

Operation and Administration

General Authority

6.001.02 Nonpublic schools are designed to meet the needs of a specific group of students. Each nonpublic school will evaluate itself on the basis of its stated goals and objectives.

Philosophy and Purposes of School

6.003.00 Each nonpublic school shall develop and maintain a written statement of its philosophy and/or mission statement and the major purposes to be served by its program. The statement shall reflect the individual character of the school and the characteristics and needs of the students it serves.

6.003.02 The statement of philosophy shall be reviewed annually and shall be revised as necessary.

6.003.04 Copies of the philosophy and/or mission statement shall be furnished to all staff members and made available to interested persons on request.

6.003.06 Each school shall maintain, on file, the following:

- a) written statement of philosophy and/or mission statement;
- b) goals and objectives for the current year; and
- c) plan for implementation of these goals and objectives.

School Approval

6.006.01 Each state-approved nonpublic school receiving state and/or federal funds shall permit all colleges and universities to have equal access to the schools for the purpose of college recruitment.

6.006.02 When applying to the State Department of Education for a classification category, all nonpublic schools seeking state approval shall include all grades/programs taught at the school.

Classification Categories

Schools shall be classified according to the following categories:

Approved (A). School meets all standards specified in Standards for Approval of Nonpublic Schools.

Provisionally Approved (PA). School has some deficiencies in standards, such as: library books below the required number per pupil; class size; curriculum do not meet prescribed requirements; and number(s) of the faculty teaching in an area for which qualifications specified are not met, etc.

Probationally Approved (P). School has one or more of the following deviations from standards:

(a) principal does not hold a master's degree or principalship certification;

(b) nondegreed teacher with fewer than five years' teaching experience is employed;

(c) school has been on provisional approval for the previous two years for the same deficiency.

Unapproved (U). School maintains any of the above-mentioned deviations from standards which placed it in the probationally approved category the preceding year. A school may not maintain a probationally approved category for two consecutive years.

Each nonpublic school shall submit an Annual School Report to the appropriate bureau (Elementary or Secondary Education) according to the established time line.

The State Department of Education (Bureaus of Elementary and Secondary Education) shall analyze each nonpublic school's annual school report according to the Standards of Approval of Nonpublic Schools approved by the SBESE.

The Department of Education shall submit to the SBESE a yearly report recommending the classification status of the nonpublic schools in accordance with the nonpublic school standards.

After the annual school reports are submitted by the State Department of Education to the State Board of Elementary and Secondary Education (SBESE) for approval classification, all nonpublic schools seeking to change their classification category must submit their request to the SBESE.

6.006.04 Re-Applying for State Approval

An unapproved school reapplying for state approval must qualify as either approved or provisionally approved.

6.009.04 Pre-Kindergarten/Kindergarten

The local educational governing authority shall have the option of establishing a pre-kindergarten and/or kindergarten program on a half-day or full-day schedule.

The pre-kindergarten program shall be listed on the Annual School Report when operated as a developmental program within the total school program.

Any other program which operates in a school as a child care program, shall follow the standards as prescribed by the Department of Health and Hospitals (DHH) and is not to be listed on the Annual School Report.

6.009.16 Minimum Session/Instructional Day

Each school shall adopt a calendar for a minimum session of 180 days, of which at least 175 days shall be scheduled to provide the required instructional time.

Effective with the 1995-96 school year, the length of the school year shall consist of 180 days of which no less than 175 days shall be student contact teaching days, or the

equivalent; the remaining five days may be used for emergencies and/or other instructional activities.

Two or more partial days may be combined to meet the minimal school year requirement of 175 days of 330 minutes of instructional time.

The class schedule must be abbreviated in order to ensure that all classes are taught during partial days.

Each school may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

Written Policies

6.010.00 Each school shall have written policies and/or regulations governing the general operation of the school.

Emergency Planning and Procedures

6.011.00 Each school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

Certification of Personnel

Instructional Staff

6.016.15 All members of the instructional staff teaching secular subjects, pre-kindergarten through 12, shall have received a bachelor's degree from a regionally-accredited institution.

They shall also have completed a minimum of 12 semester hours of professional education courses. A beginning teacher shall have a two-year period in which to meet this 12-semester-hour standard. The teacher shall be required to have a certificate or college major in the field of work for which the teacher is responsible during one-half or more of the school day or shall have earned credits in the required specific specialized academic courses as described in Bulletin 746, Louisiana Standards for State Certification of School Personnel. A teacher may work in areas other than the major field for a period of time that is less than one-half of the school day provided that he has earned at least 12 semester hours in each such area. (Exception may be made for teachers in Trade and Industrial Education classes.)

Teachers of the pre-kindergarten class shall be qualified in either elementary, kindergarten, or nursery school or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Teachers of the kindergarten class shall be qualified in either elementary or kindergarten or have earned 12 hours in child growth and development. The 12 hours in child growth and development may be earned through the College of Education or the Department/School of Home Economics.

Staff members teaching Religion at the high school level (9-12) for Carnegie units must have a minimum of a bachelor's degree. Staff members teaching Religion who do not meet minimum qualifications may be employed in a nonpublic school provided they were employed during the 1995-96 school year as teachers of Religion.

Records and Reports

Maintenance and Use of School Records and Reports

6.026.00 Each school shall maintain necessary records for the effective operation of the school. These records shall be retained by the school for not less than three years.

Transfer of Student Records from Schools That Are Not State-Approved

6.026.08 Local school principals from any state-approved school receiving a student from an unapproved school, in- or out-of-state, will determine the placement and/or credits for the student. The principal and/or superintendent may require the student to take an entrance examination on any subject matter for which credit is claimed. The school issuing the high school diploma shall account for all credit required for graduation, and its records will show when and where the credit was earned.

Students Transferring from Home Study

6.026.09 The school shall adhere to the policies and procedures established by the school/system for students entering or reentering the school/system from an approved home study program.

Students Transferring from Foreign Schools

6.026.10 The school shall determine placement of students transferring from foreign schools. This determination shall be accepted by the State Department of Education (SDE).

6.026.11 Credits earned by students in American schools in foreign countries shall be accepted at face value.

Textbook Records

6.026.13 State funds allocated for buying textbooks shall be used to buy books on the state-adopted textbook lists and academically related ancillary materials according to the state guidelines.

Waivers: Local schools may use state textbook dollars for the purchase of nonadopted instructional materials when:

(1) they are purchasing instructional materials for grades K-3 that are manipulative concrete materials, or gross motor materials;

(2) they do not exceed 10 percent of the total state textbook allocation; and

(3) schools may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance.

Health Records

6.026.15 A health record shall be maintained on each student from pre-kindergarten through grade 12.

School Reports

Annual Financial and Statistical Report

6.027.02 Information required for the completion of the Annual Financial and Statistical Report shall be recorded on forms furnished by the State Department of Education.

A complete form shall be sent to each nonpublic school principal by the State Department of Education. A copy of this report shall be filed in the principal's office and a copy forwarded to the Bureau of School Accountability in the State Department of Education.

Scheduling

Secondary Scheduling

6.037.09 The minimum length of periods for any high school class in which a Carnegie unit is earned shall be no less than 55 minutes of instructional time in a six-period day and no less than 50 minutes of time in a seven-period day.

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or

increase the number of class periods per week provided that the yearly aggregate time requirements are met.

9,625 minutes (six-period day)

8,750 minutes (seven-period day)

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of class periods per week, provided that the aggregate time requirements are met. Significant modifications may be made for special education students in accordance with the Individualized Education Program (IEP) provided that the integrity of the Carnegie unit is not diminished.

Student Services

Age Requirements

6.055.19 The minimum age for kindergarten shall be one year younger than the age requirement for that child to enter first grade.

Each school may adopt by rule and enforce ages for entrance into first grade in the school.

Health Services and Screening

Immunization

6.056.04 The school principal of each school shall be responsible for checking student records to ensure that immunization requirements are enforced. (Refer to R.S. 17:170.)

6.056.05 After parental notification that a student's immunization schedule is not up-to-date, the student shall be excluded from school until evidence has been presented that the required immunization program is in progress or unless R.S. 17:170(E) is invoked. (Refer to R.S. 17:170.)

Curriculum and Instruction

Elementary Schools

6.090.05 The following elementary program of studies will be followed for nonpublic elementary schools:

Program of Studies

For Nonpublic Elementary Schools
(Grades 1-6)

Subject	Percent of School Day
Reading	50 Percent (Minimum)
Language Arts	
Mathematics	
Social Studies	50 Percent (Maximum)
Fine Arts	
Science	
Physical Education/Health	
Religion and/or Electives	

An articulated elementary foreign language program is recommended for academically-able students and optional for all others.

The above minimum time requirements shall apply to all students performing at or above grade levels in Language Arts and Mathematics. Subject to review and approval of the principal, teachers may vary the daily schedule for the various subject time requirements as long as the weekly aggregate of time for each subject is in accordance with the above.

For students performing below grade level in Language Arts or Mathematics, teachers may increase the daily/weekly time

in Language Arts or Mathematics by reducing instructional time in other subjects.

Grades 7 and 8 (Six-Period Day Option)

	Periods per Week	Minimum Time
Language Arts	5	55
Mathematics and Introduction to Algebra	5	55
Social Studies (Louisiana Studies and American History)	5	55
Science	5	55
Health and Physical Education; or Health and Physical Education and Electives	10	110
		330 minutes per day

Grades 7 and 8 (Seven-Period Day Option)

	Periods per Week	Minimum Time
Language Arts	5	50
Mathematics and Introduction to Algebra	5	50
Social Studies (Louisiana Studies and American History)	5	50
Science	5	50
Health and Physical Education and Electives	15	150
		350 minutes per day

Grade 6 may adhere to the six-period or seven-period options only in organizational patterns which include grades 7 and 8.

The schedule of subjects offered in the program of studies may be arranged by school principals in order to reduce or increase the number of minutes per week, provided that the yearly aggregate time requirements are met.

9,625 minutes (six-period day all subjects except Language Arts)
19,250 minutes (six-period day Language Arts)

8,750 minutes (seven-period day all subjects except Language Arts)
17,500 minutes (seven-period day Language Arts)

Grades 7 and 8 (including grade 6 when grouped with grades 7 and 8) may offer electives from the following:

- Reading;
- Exploratory Agriculture;
- Industrial Arts;
- Construction;
- Manufacturing;
- Communication;

Transportation;
 Industry (sixth);
 Exploratory Homemaking;
 Art;
 Foreign Languages;
 Instrumental or Vocal Music;
 Typing/Keyboarding;
 Speech;
 Computer Literacy/Computer Science.

In Industrial Arts, the minimum time for any cluster is six weeks. Maximum time allowed in a cluster is 36 weeks. All areas in each cluster should be taught.

Choice of electives may be alternated during the year and/or semester. Additional electives may be offered with the approval of the State Department of Education.

For a six-period day option:

1. electives may be offered on alternate days with Health and Physical Education for the entire year, provided an equal number of days is given to each subject;

2. electives may be offered five periods per week, for one semester; and Health and Physical Education for five periods per week, for one semester.

Secondary Schools

6.099.01 The 23 units required for graduation shall include 15 required units and eight elective units.

Minimum Requirements for High School Graduation

English—shall be English I, II, and III in consecutive order; and English IV or Business English. 4 units

Mathematics (Effective for 1998-99 incoming freshmen and thereafter.)

Shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics. (Effective for incoming freshmen prior to 1998-99.)

Shall be Algebra I and one of the following options: (1) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year), or (2) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry. 3 units

Science—shall be Biology and two of the following: General Science or Physical Science (but not both), Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science. 3 units

Social Studies—shall be American History; Civics or ½ unit of Civics and 1/2 unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. 3 units

Health and Physical Education—shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students.
 Note: The substitution of R.O.T.C. is permissible. A maximum of four units may be used toward graduation. 2 units

Electives 8 units

Total 23 Units

The State Board of Elementary and Secondary Education Honors' Curriculum

English
 English I, II, III, IV (no substitutions) 4 units

Mathematics
 Algebra I; Algebra II, Geometry; and one additional unit to be selected from Calculus, Trigonometry, or Advanced Mathematics 4 units

Natural Science
 Biology; Chemistry; and Earth Science or Physics 3 units

Social Studies
 United States History; World History; and World Geography or Western Civilization 3 units

Free Enterprise ½ unit

Civics ½ unit

Fine Arts Survey
 Any two units of credit in band, orchestra, choir, dance, art or drama may be substituted for one unit of Fine Arts Survey 1 unit

Foreign Language (in same language) 2 units

Physical Education 2 units

Electives 4 units

Total 24 units

The Fine Arts requirement can be met by completing the courses Fine Arts Survey (Art) ½ unit and Fine Arts Survey (Music) ½ unit.

Special Requirements

High School Credit for Elementary Students

6.102.01 An elementary student shall be eligible to receive high school credit in a course listed in the program of studies provided that:

- a) the time requirements for the awarding of a Carnegie unit are met;
- b) the teacher is qualified at the secondary level in the course taught; and
- c) the student has mastered the set standards of the course taken.

The school system may grant credit on either a letter grade or a Pass or Fail (P/F) basis, provided there is consistency systemwide. The course title, year taken, Pass or Fail (P/F) or the letter grade and unit of credit shall be entered on the Certificate of High School Credits (transcript). High School Credit (H.S.C.) must be indicated in the remarks column; or

d) the student has passed the credit examination in the subject taken, mastering the set standards for the course.

Credit shall be granted on a Pass or Fail (P/F) basis only. The course title, year taken, Pass or Fail (P/F), and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). Credit Examination (C.E.) must be indicated in the remarks column.

If a credit examination has not been developed in a subject area, the school may submit an examination developed locally that will test mastery of the performance objectives in the state curricular guides. The testing instrument and the passing score must be approved by the Bureau of Secondary Education, State Department of Education.

Credit or credit examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, and Keyboarding. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science, and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon request of the school principal.

Proficiency Examination

6.102.04 High school credit shall be granted to a student following the student's passing of a Proficiency Examination for the eligible course. Refer to Standards 6.026.09 for students transferring from an approved Home Study Program.

A proficiency examination shall be made available to a student when a school official believes that a student has mastered eligible subject matter and has reached the same or a higher degree of proficiency as that of a student who successfully completed an equivalent course at the regular high school or college level.

The testing instrument and the passing score shall be submitted for approval to the Bureau of Secondary Education, State Department of Education.

The course title, year taken, Pass or Fail (P/F) and unit of credit earned shall be entered on the Certificate of High School Credits (transcript). Minimum Proficiency Standards (M.F.P.) must be indicated in the remarks column.

6.102.05 Students shall not be allowed to take proficiency examinations in courses previously completed in high school or at a level below that which they have completed.

Proficiency examinations may be given in the following subjects: Computer Literacy, Computer Science I-II, English I-IV, Advanced Mathematics, Algebra I-II, Calculus, Geometry, Trigonometry, and Keyboarding. Additionally, credit may be given in all courses listed in the Program of Studies in Foreign Languages, Science and Social Studies. Exceptions may be made by the Bureau of Secondary Education, State Department of Education upon the request of the school principal.

High School Program of Studies

6.105.15 Mathematics. Effective for 1998-99 incoming freshmen and thereafter, three units of Mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of two entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra I-Part 2,

Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

For incoming freshmen prior to 1998-99, three units of Mathematics shall be required for graduation. They shall be:

Algebra I and one of the following options: (1) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year), or (2) Algebra II and either Geometry or Applied Geometry (effective 1996-97 school year) and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry. The Mathematics course offerings shall be as follows:

Course Title	Unit(s)
Advanced Mathematics	1
Algebra I	1
Applied Algebra IA	1
Applied Algebra IB	1
Business Mathematics	1
Calculus	1
Consumer Mathematics	1
Geometry	1
Applied Geometry (1996-97 school year)	1
Integrated Algebra/Geometry	1
Trigonometry	½

Business Mathematics may be taught by the Business Education Department.

Students may not earn a unit in both Business Mathematics and Consumer Mathematics.

Teachers selected to teach Applied Algebra IA, Applied Algebra IB, or Applied Geometry shall be provided with the appropriate staff development/in-service.

Science

6.105.20 Three units of Science shall be required for graduation. They shall be Biology and two of the following:

General Science or Physical Science (but not both); Earth Science, Chemistry, Chemistry II, Physics, Physics II, Aerospace Science, Environmental Science, Physics for Technology, Biology II, or both Vocational Agriculture I and II for one requirement of science. Science course offerings shall be as follows:

Course Title	Unit(s)
Aerospace Science	1
Biology	1
Biology II	1
Chemistry	1
Chemistry II	1
Earth Science	1

Ecology	1
Environmental Science	1
General Science	1
Physical Science	1
Physics	1
Physics II	1
Physics for Technology	1

Recommended

Course Title	Grade Level	Units
Family and Consumer Sciences	9-10	1

Education I

Family and Consumer Sciences	10-12	1
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Education II

Adult Responsibilities	11-12	½
Child Development	10-12	½
Clothing and Textiles	10-12	½
Family Economics	10-12	½
Food and Nutrition	10-12	½
Home and Family	11-12	½
Housing	10-12	½
Nutrition Education	10-12	½
Parenthood Education	11-12	½

(Advanced Semester Courses)

Advanced Child Development	10-12	½
Advanced Clothing and Textiles	10-12	½
Advanced Food and Nutrition	10-12	½
Advanced Nutrition Education	10-12	½

Secondary Students Attending a Postsecondary Technical College

6.105.35 Secondary students attending a postsecondary technical college may receive credit for instruction in any program area offered in the vocational-technical school, if time requirements for Carnegie units are met and if an equivalent course is not offered by the local school system.

If the course content is equivalent to the content of a vocational education course offering listed under Standards 6.105.24 - 6.105.32, the unit(s) of credit shall be reported on the student's transcript by that title.

If the course content is not equivalent to a course listed under Standards 6.105.24 - 6.105.32, the unit(s) of credit shall be reported by the postsecondary title.

High School Credit for College Courses

(Applies to students attending colleges part time)

6.105.46 The student shall have scored at least a minimum composite score of 25 on the ACT or a minimum of 28 in English or 25 in Mathematics if pursuing those areas or have a SAT composite score of 1050 or have a score of 500 on the verbal portion or 560 on the Mathematics portion of the SAT in the area to be pursued at the college level.

Early College Admissions Policy

(Applies only to high school students attending college full time)

6.108.02 The student shall have earned a minimum composite score of 25 on the ACT or a SAT score of 1050; this score must be submitted to the college.

Social Studies

6.105.21 Three units of Social Studies shall be required for graduation. They shall be American History; Civics or ½ unit of Civics and ½ unit of Free Enterprise; and one of the following: World History, World Geography, or Western Civilization. Social Studies course offerings shall be as follows:

Course Title	Unit(s)
American Government	1
American History	1
Anthropology	1
Civics	1
Economics	1
Far East Studies	1
Free Enterprise System	½
Law Studies	1
Modern European History	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1

Economics may be taught in Business Education.

Free Enterprise shall be taught by teachers qualified in Social Studies, Business Education, or Distributive Education.

Course Credit for Religion

6.105.23 A maximum of four units of credit in Religion shall be allowed to meet graduation requirements.

Course Title	Unit(s)
Religion I, II, III, IV	1 each

A maximum of four units in Religion shall be granted to students transferring from state-approved private and sectarian high schools. Those credits shall be accepted in meeting the requirements for high school graduation.

Home Economics—Consumer and Homemaking Education

6.105.29 Home Economics—Consumer and Homemaking Education course offerings shall be as follows:

Summer Schools

Elementary Summer Schools

6.113.14 Time Requirements

Elementary summer schools shall offer a minimum of 70 hours of instruction per subject for removal of deficiencies.

Secondary Summer Schools

The local system may impose a stricter minimum attendance policy.

Instruction by Private Teachers

6.116.18 Credit may be allowed for high school work completed under private instructors, subject to the following conditions:

1. The instruction must be under the direction of a private tutor only when the tutor is eligible for regular employment in an approved nonpublic high school.

2. The time requirements for credits in a regular high school will apply.

3. The necessary facilities peculiar to a particular subject must be available for instructional purposes.

4. Prior to enrolling in a privately tutored course, a student must obtain written approval from the principal of the high school in which he/she is enrolled.

Southern Association of Colleges and Schools member schools should comply with Principle D, Standard 6. (Member schools shall not give credit for private tutoring.)

Approval of Alternative Schools/Programs

6.151.01 Approval shall be obtained from the State Board of Elementary and Secondary Education (SBESE), prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information:

1. purpose;
2. needs assessment;
3. type (Alternative within Regular Education or Alternative to Regular Education placement);
4. list of the Louisiana Handbook for School Administrators, Bulletin 741 policy and standard deviations;
5. anticipated date of implementation;
6. student eligibility;
7. entrance and exit criteria;
8. total number of students;
9. individual class size;
10. detailed outline of curriculum;
11. methods of instruction to meet individual student needs certification;
12. type and number of staff including qualifications/certification;
13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. educational support services;
17. in-service;
18. type and location of physical facility;
19. procedure for program evaluation.

A school choosing to implement an alternative school/program shall submit the above proposal to the director of the appropriate bureau (Elementary Education or Secondary Education, State Department of Education) and the State Board

of Elementary and Secondary Education no later than March 1 for approval for the subsequent school year. Refer to guidelines for alternative schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the State Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments on the proposed changes until 4:30 p.m., April 10, 1998, to Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Nonpublic Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that at least 30 pages of Nonpublic Bulletin 741 will need to be printed and disseminated to LEAs. The estimated cost at \$100 per page is \$3,000.

BESE estimated cost for printing this policy change and first page of fiscal and economic impact statement in the *Louisiana Register* is approximately \$560.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Nonpublic schools may realize a possible savings by taking advantage of some of the deregulation. It is not possible to determine how many systems will take advantage of the changes at this time nor is it possible to project the amount of savings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9802#078

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Family and Consumer Science Certification

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the proposed change of the name of the certification area of Home Economics to Family and Consumer Sciences. The certification requirements are listed in Bulletin 746, Louisiana Standards for State Certification of School Personnel, and are amended as printed below.

Family and Consumer Sciences* (Vocational)

A minimum of 42 semester hours distributed as follows:

- A. Clothing and Textiles—6 semester hours;
- B. Consumer Education and Management—6 semester hours;
- C. Food and Nutrition—6 semester hours;
- D. Housing, Home Furnishings and Equipment—3 semester hours;
- E. Human Development and Relationships (including observation and participation in the nursery school)—9 semester hours;
- F. Family and Consumer Sciences Electives—12 semester hours.

*Early Childhood Endorsements, see pages 11-13

Mandatory for all individuals applying for certification in Family and Consumer Sciences (Vocational) on or after July 1, 1998.

Family and Consumer Sciences (Occupational Programs)

Authorization to teach Family and Consumer Sciences occupational programs may be added to the certificate of a teacher who is certified in vocational Family and Consumer Sciences and has completed the following:

- 1. at least 3 semester hours in organization and administration of Family and Consumer Sciences occupational programs including cooperative education; and
- 2. 2,000 hours of successful work experience or a minimum of 120 hours in supervised field practicum in the area of occupational certification.

Family and Consumer Sciences (Food Science)

Authorization to teach Family and Consumer Sciences food science programs may be added to the certificate of a teacher who is certified in vocational Family and Consumer Sciences provided that the teacher has:

- 1. at least six semester hours in college chemistry; and
- 2. at least six semester hours in food science.

Ancillary Family and Consumer Sciences (Occupational Programs)

1. Provisional Certification. Valid for three years and renewable upon request of employing authority, may be issued to a person who has completed the following:

- a. bachelor's degree in a subject area of Family and Consumer Sciences;
- b. at least 12 semester hours in professional education courses to include organization and administration of Family and Consumer Sciences occupational programs; and
- c. 2,000 hours of successful work experience in the area of occupational certification.

2. Permanent Certification. Valid for life for continuous service, may be issued upon completion of the requirements for provisional certification and three years of teaching experience in Family and Consumer Sciences occupational programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., April 10, 1998 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Family and Consumer Science Certification

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The adoption of this proposed rule will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no effect on revenue collection.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule will result in no costs or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will not affect competition or employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9802#074

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196—Food and Nutrition Programs—Sale of Snack Concessions

(Editor's Note: A portion of the following notice of intent, published on pages 1721 - 1722 of the December 1997 Louisiana Register, is being republished to correct a typographical error.)

4.19 Competitive Foods

Grades K-6. Reimbursement for lunch, special milk, and/or breakfast may be withheld from schools if concessions, canteens, snack bars, or vending machines are operated on a profit basis before the end of the last lunch period. Such services are operated for profit if the income is not deposited to the nonprofit school food service program, and expended only for the purpose of the Child Nutrition Program(s).

* * *

Weegie Peabody
Executive Director

9802#010

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1882—Principal/Assistant Principal Internship

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend Bulletin 1882—Administrative Leadership Academy Guidelines. Bulletin 1882 is referenced in LAC 28:I.920.A.

The amendment defines Newly Appointed Assistant Principals and Newly Appointed Principals. The revision, located on page 11 and 12 of Bulletin 1882 is amended as follows.

Training

Principal Internship

* * *

(See Prior Text)

Newly Appointed Principal

A person appointed to a principalship is considered to be "newly appointed" if at least one of the following conditions apply:

1. first time serving as a principal in a Louisiana public school;
2. prior experience in a Louisiana public school for two or more years as a principal and has been out of the principalship for five or more years; or
3. prior experience in a Louisiana public school for less than two years as a principal and reenters the principalship.

Training

Assistant Principal Internship

* * *

(See Prior Text)

Newly Appointed Assistant Principal

A person appointed to an assistant principalship is considered to be "newly appointed" if a least one of the following conditions apply:

1. first time appointed to an assistant principalship in a Louisiana public school;
2. prior experience in a Louisiana public school, for more than one year as an assistant principal, but has been out of the assistant principalship for five or more years; or
3. prior experience in a Louisiana public school for less than one year and reenters the assistant principalship.

Note: Situations that are not addressed by the above guidelines will be considered by the department on an individual basis. Decisions regarding participation will be based on written information from the superintendent of the respective school system or his/her designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit written comments until 4:30 p.m., April 10, 1998 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1882—Principal/Assistant Principal Internship

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 - a) BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60. Funds are available.
 - b) The Department of Education's estimated cost to update Bulletin 1882 will be \$320.
 - c) There is no cost to local school systems for principals to participate.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The persons who will be directly affected by the proposed action are newly appointed principals and assistant principals. The proposed rule will be used to determine which principals and assistant principals participate in the internship program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9802#075

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

School Psychologists' Appeals Council (LAC 28:I.105 and 107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend the *Louisiana Administrative Code*. The amendment abolishes the School Psychologists' Appeals Council.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 1. Organization

§105. Board Advisory Councils

- A. Creation
 1. - 8. ...
 9. Special Education Advisory Council (R.S. 17:1954);
 10. Teacher Certification Advisory Council (R.S. 17:31);
 11. Teacher Certification Appeals Council;
 12. Textbook and Media Advisory Council (R.S. 17:415.1).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

§107. Board Appeals Councils

A. ...

B.1. - 2.b.iii. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

Interested persons may submit comments until 4:30 p.m., April 10, 1998 to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: School Psychologists' Appeals Council**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action will have no fiscal effect other than \$40 for advertising in the *Louisiana Register*.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action will have no effect on costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
9802#077

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

Chemical Accident Prevention
(LAC 33:III.5901)(AQ170*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.5901 (AQ170*).

This proposed rule is identical to federal law or regulation, 63 FR 639-645, January 6, 1998, which is applicable in Louisiana. For more information regarding the federal

requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

The proposed rule will amend the Chemical Accident Prevention rule to include the recently adopted changes to the Environmental Protection Agency's Risk Management rule (40 CFR part 68). These changes finalize the "stay provisions" that were part of the rule and expired on December 22, 1997. These changes include deleting the category of Division 1.1 explosives (as listed by the federal Department of Transportation) from the list of regulated substances; exempting from threshold quantity determinations the regulated flammable substances in gasoline used as fuel and in naturally occurring hydrocarbon mixtures prior to entry into a natural gas processing plant or a petroleum refining process unit; clarifying the provision for threshold determination of flammable substances in a mixture; modifying to clarify the definition of stationary source to exempt transportation and storage incident to transportation; clarifying that naturally occurring hydrocarbon reservoirs are not stationary sources or parts of stationary sources; and clarifying that the chemical accident prevention provisions do not apply to sources located on the outer continental shelf. This proposed rule is needed because without it facilities that were previously exempt under provisions of the stay in 40 CFR part 68 are subject to LAC 33:III.Chapter 59.

The basis and rationale for this proposed rule are to make the department's Chemical Accident Prevention rule consistent with the EPA Risk Management rule.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 59. Chemical Accident Prevention and
Minimization of Consequences**

Subchapter A. General Provisions

**§5901. Incorporation by Reference of Federal
Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1997), and as amended in 63 FR 639-645 (January 6, 1998).

* * *

[See Prior Text in B-C.5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:

A public hearing will be held on March 30, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral

comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by AQ170*. Such comments must be received no later than March 30, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this proposed rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Gus Von Bodungen
Assistant Secretary

9802#027

NOTICE OF INTENT

Department of Environmental Quality Office of Waste Services Hazardous Waste Division

RCRA Updates (LAC 33:V.3105)(HW061*)

(Editor's Note: A portion of the following notice of intent, which appeared on pages 192 through 194 of the January 20, 1998 Louisiana Register, is being republished to correct typographical errors.)

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 31. Incinerators

§3105. Applicability

* * *

[See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in Acetonitrile - Beryllium compounds, N.O.S. ¹]			
Bis (pentamethylene)-thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	U400
* * * [See Prior Text in Bromoacetone - Butyl benzyl phthalate]			
Butylate	Carbamothioic acid, bis (2-methylpropyl)-, S-ethyl ester	2008-41-5	U392
* * * [See Prior Text in Cacodylic acid - Copper Cyanide]			
Copper dimethyl-dithiocarbamate	Copper, bis(dimethylcarbamodithioato-S,S')-	137-29-1	U393
* * * [See Prior Text in Creosote - Cycasin]			
Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134-23-2	U386
* * * [See Prior Text in 2-Cyclohexyl-4,6- dinitrophenol - Daunomycin]			
Dazomet	2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl	533-74-4	U366
* * * [See Prior Text in DDD - Di-n-propylnitrosamine]			
Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97-77-8	U403

* * *			
[See Prior Text in Disulfoton - Epinephrine]			
EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759-94-4	U390
* * *			
[See Prior Text in Ethyl carbamate (urethane) - Ethyl methanesulfonate]			
Ethyl Ziram	Zinc, bis(diethylcarbamodithioato-S,S')-	14324-55-1	U407
* * *			
[See Prior Text in Famphur]			
Ferbam	Iron, tris(dimethylcarbamodithioato-S,S')-,	14484-64-1	U396
* * *			
[See Prior Text in Fluoranthene - Hydrogen sulfide]			
3-Iodo-2-propynyl n-butylcarbamate	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406-53-6	U375
* * *			
[See Prior Text in Indeno[1,2,3-cd]pyrene - Mercury fulminate]			
Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137-42-8	U384
* * *			
[See Prior Text in Methacrylonitrile - MNNG]			
Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester	2212-67-1	U365
* * *			
[See Prior Text in Mustard gas - Parathion]			
Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114-71-2	U391
* * *			
[See Prior Text in Pentachlorobenzene - Potassium cyanide]			
Potassium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl, potassium salt	128-03-0	U383
Potassium hydroxymethyl-n-methyl- dithiocarbamate	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	U378
Potassium n-methyldithiocarbamate	Carbamodithioic acid, methyl-monopotassium salt	137-41-7	U377
* * *			
[See Prior Text in Potassium pentachlorophenate - Selenium sulfide]			
Selenium, tetrakis (dimethyl-dithiocarbamate	Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid	144-34-3	U376
* * *			
[See Prior Text in Selenourea - Sodium cyanide]			
Sodium dibutyldithiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136-30-1	U379
Sodium diethyldithiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148-18-5	U381
Sodium dimethyldithiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128-04-1	U382
* * *			
[See Prior Text in Sodium pentachlorophenate - Strychnine salts]			
Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95-06-7	U277
* * *			
[See Prior Text in TCDD]			

Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	U402
Tetrabutylthiuram monosulfide	Bis (dimethylthiocarbamoyl) sulfide	97-74-5	U401
* * *			
[See Prior Text in 1,2,4,5-Tetrachlorobenzene - Vanadium pentoxide]			
Vernolate	Carbamothioic acid, dipropyl-, S-propyl ester	1929-77-7	U385
* * *			
[See Prior Text in Vinyl chloride - Zinc phosphide]			
Ziram	Zinc, bis(dimethylcarbamodithioato-S,S')-(T-4)-	137-30-4	P205

¹The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:

H.M. Strong
Assistant Secretary

9802#087

IV. Pre-Retirement Death Benefits

Repealed.

V. General

Repealed.

A public hearing will be conducted by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity on March 30, 1998, at 9:30 a.m. at 329 South Dorgenois Street, New Orleans, LA 70119.

Any interested person may submit data, views, or arguments, orally or in writing, concerning these proposed rules or may make inquiries concerning the repeal of these rules to Richard J. Hampton, Jr., Secretary-Treasurer of the Board of Trustees, 329 South Dorgenois Street, New Orleans, LA 70119.

William M. Carrouché
President

NOTICE OF INTENT

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Repeal of Death Benefit Payments

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("fund"), pursuant to R.S. 11:3363(F), proposes to repeal rules applicable to death benefit payments due to the many amendments to the enabling statute causing the rule to become incomplete, incorrect, and/or inapplicable to benefit applications submitted by surviving spouses and other beneficiaries of the fund's old and new systems. The fund is presently reevaluating and redrafting the Payments of Death Benefit rule to reflect the current law and the board's application of same.

I. Definitions

Repealed.

II. Beneficiary Designations and Election of Retirement and Death Benefits

Repealed.

III. Calculation of Death Benefits

Repealed.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Repeal of Death Benefit Payments

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs to the state or local governmental units due to the repeal of the proposed rule for the Payments of Death Benefits.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Repeal of the proposed rule for Payments of Death Benefits will have no effect whatever on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no economic benefit to any directly affected persons or nongovernmental group, nor will there be any cost attributable to these parties.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The repeal of the proposed rule for Payments of Death Benefits will have no effect on competition and employment.

Marie Healey
Fund Counsel
9802#021

Richard W. England
Assistant to the
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Office of Veterans Affairs**

Travel (LAC 4:VII.911)

By authority of R.S. 29:254, the Office of Veterans Affairs does hereby give notice of intent to amend LAC 4:VII.911.A allowing travel reimbursement to commission members in the course of official state business on days per diem is not paid. Section 911 is printed in its entirety for the purpose of continuity.

The executive director of the Office of Veterans Affairs is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule including, but not limited to, the filing of the fiscal and economic impact statement, filing of the notice of intent and final rule, and the preparation of reports and correspondence to other agencies of government.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 9. Veterans Affairs

Subchapter A. Office of Veterans Affairs

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the chairman or his designated representative. Travel must be for official state business.

B. Commission members may not be authorized travel reimbursement for out-of-state trips.

C. All travel vouchers for the commission members shall be authorized by the chairman or his designated representative, the director of the Office of Veterans Affairs, with ultimate responsibility held by the chairman, in accordance with adopted rules relating to travel.

D. The director, as secretary of the commission, shall keep the chairman and all members of the commission apprised of the availability or nonavailability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), LR 24:

Interested persons are invited to submit inquiries or written comments on the proposed amendment by 4:30 p.m., March 27, 1998, to John E. Caulking, Executive Director, Box 94095, Capitol Station, Baton Rouge, LA 70804-9095, or to 1885 Wooddale Boulevard, Tenth Floor, Baton Rouge, LA 70806.

John E. Caulking
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Travel

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments would allow travel reimbursement to Veterans Affairs Commission members in the course of official state business on days when per diem is not paid. The Office of Veterans Affairs estimates additional travel expenditures of \$680 in FY 98 and \$1,224 annually, beginning in FY 99. These expenditures are based on one travel day for each of the nine commission members reimbursed at \$136/day based on state travel regulations (\$24 meals, \$60 lodging, \$52 mileage). FY 98 expenditures are based on a total of five travel days occurring late in the fiscal year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments are not estimated to have any effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to directly affected persons or nongovernmental groups. The economic benefits to directly affected persons will be reimbursement of travel expenses to commission members in the performance of official state business.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment from the proposed amendments.

John E. Caulking
Executive Director
9802#046

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Office of the Governor
Patient's Compensation Fund Oversight Board**

Actuarial Study and Rate Application,
Filing, and Notice (LAC 37:III.703 and 707)

The Patient's Compensation Fund Oversight Board, under authority of the Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 37:III.Chapter 7, as follows, pertaining to the dates which the actuarial study and application for surcharge rates or rate changes must be completed and filed with the Insurance Rating Commission.

**Title 37
INSURANCE**

**Part III. Patient's Compensation Fund Oversight
Board**

Chapter 7. Surcharges

§703. Annual Actuarial Study

A. An actuarial study of the fund and the surcharge rate structure necessary and appropriate to ensure that it is and remains financially and actuarially sound shall be performed annually by the PCF's consulting actuary on the basis of an actuarial analysis of all relevant claims experience data collected and maintained by the fund. In conjunction with the executive director, the consulting actuary shall, on behalf of the board, develop and prepare for submission to the Louisiana Insurance Rating Commission (LIRC) an application for surcharge rates or rate changes.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 19:204 (February 1993), LR 24:

§707. Rate Applications, Filings; Notice of Rates

A. The PCF's application for surcharge rates or rate changes, if indicated by the annual actuarial study conducted pursuant to §703, shall be filed with the LIRC by the executive director on behalf of the board.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 24:

All interested persons are invited to submit written comments on the amended rules. Such comments should be submitted no later than March 20, 1997 at 4:30 p.m. to Michael A. Walsh, Executive Director, Patient's Compensation Fund Oversight Board, 650 North Sixth Street, Baton Rouge, LA 70802 or to FAX number (504) 342-6053.

Michael A. Walsh
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Actuarial Study and Rate Application, Filing,
and Notice**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amendments pertain to the dates which the actuarial study and application for surcharge rates or rate changes must be completed. It is estimated that the costs to implement the proposed rule amendments will not exceed \$2,000. The costs will include printing, copy charges, administrative overhead expenses and legal fees which will be paid by the Patient's Compensation Fund, R.S. 40:1299.44 et seq., from statutorily dedicated funds available in the FY 97-98 budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or

local governmental units from implementation of the proposed rule amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or nongovernmental groups. These proposed rule amendments pertain to the dates which the actuarial study and application for surcharge rates or rate changes must be completed and filed with the Louisiana Insurance Rating Commission.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Patient's Compensation Fund Oversight Board anticipates no effect on either competition or employment as a result of adopting the proposed rule amendments. These proposed amendments pertain to the dates which the actuarial study and application for surcharge rates or rate changes must be completed and filed with the Louisiana Insurance Rating Commission.

Michael Walsh
Executive Director
9802#082

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Dentistry**

Patient's Records (LAC 46:XXXIII.318)

(Editor's Note: The following section was inadvertently omitted from a notice of intent published by the Board of Dentistry on pages 203 - 212 of the January 1998 Louisiana Register. Section 318 does not alter the fiscal and economic impact statement published with the original proposed rule and will be included upon final rule promulgation.)

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XXXIII. Dental Health Professions**

Chapter 3. Dentists

§318. Patient's Records

A. Upon written request from the patient or the patient's legal representative, each dentist shall furnish a copy of any of the patient's dental records maintained in the dentist's office within 15 days, exclusive of holidays or weekends, from the receipt of the request.

B.1. The original dental records are the property of the dentist. However, the dentist may charge a reasonable copying charge not to exceed:

\$1 per page for the first 25 pages;

\$.50 per page for pages 26 - 500; and

\$.25 per page thereafter.

2. A handling charge not to exceed \$5, and actual postage may also be charged.

3. The dentist may also charge a reasonable fee for duplication of diagnostic materials.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:1299.96.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:

Interested persons may submit written comments on this proposed rule to C. Barry Ogden, Executive Director, Board of Dentistry, 1515 Poydras Street, Suite 1850, New Orleans, LA 70112. Written comments must be submitted to and received by the board within 30 days of this notice.

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

C. Barry Ogden
Executive Director

9802#026

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Comprehensive Rule Revisions
(LAC 46:XLVII.Chapters 31- 43)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board), pursuant to the authority vested in the board by R.S. 37:911 et seq., intends to amend LAC 46:XLVII.Chapters 37 - 41, pertaining to nursing practice, employment of unlicensed persons, nursing function delegation, Hepatitis B and HIV viruses transmission prevention, educational programs, disciplinary proceedings, and financial disclosure.

The full text of these proposed rules may be obtained by contacting the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802, (504)342-5015 or by contacting the State Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002, (504)838-5396.

Interested persons may submit written comments on the proposed rules no later than 4:30 p.m. on March 27, 1998, to Barbara L. Morvant, Executive Director, Board of Nursing, 3510 North Causeway Boulevard, Suite 501, Metairie, LA 70002.

Barbara L. Morvant, RN, MN
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Comprehensive Rule Revisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Re: Chapter 33—For initial implementation in fiscal year 1998-1999, a one-time mailing to all individuals, age 60 and over, currently inactive or delinquent status (4,600 individuals) is projected to include printing, postage and mail service at \$1,500. Additional costs are based on an assumption that approximately 600 of these individuals will seek RN retired status; therefore, printing forms, applications, and licenses, and related postage are projected for a total of \$2,000. Computer

programming costs of \$1,000 are projected for the first year adjustments. The \$200 cost projected for the following years includes mailing of applications to those eligible for retired status, mailing and printing of licenses to those who apply, and miscellaneous expenses.

Re: Chapter 34—It is anticipated that the proposed rules will assist the board in more efficient handling of reports against licensees through a large number of reports being resolved through either a contract with the RNP, consent agreement, or settlement committee, rather than the more costly disciplinary hearing process. It is anticipated that the eight to nine days per year spent in entire board hearings will be reduced to four to five days per year and more cases being resolved through cost-effective options. It is anticipated that there will be a decrease in costs of \$19,880 per year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Re: Chapter 33—A one-time fee of \$25 will be assessed to individuals requesting retired license status. It is anticipated that approximately 600 RNs will apply for this status. First-year implementation revenue will increase by 100 RNs, the number of individuals requesting retired status from inactive or delinquent status. Revenues will begin to decrease in the third year of implementation by the number of individuals retiring the previous year and no longer required to pay renewal fee.

Re: Chapter 34—There is no change of revenue projected as a result of these rules changes. The 1995 Nurse Practice Act authorized the board to impose costs and fines as a component of the disciplinary process. The board imposes these costs and fines on an individual basis. The board projected in the 1997 and 1998 budget \$50,000 revenue from costs and fines. There is no anticipated increase or decrease as a result of these proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Re: Chapter 33—Individuals applying for retired status as opposed to inactive status will be required to pay a one-time fee of \$25. There is no cost for inactive status. Individuals on retired status will no longer be allowed to practice as registered nurses. The majority of these RNs requesting this status will be age 60 and over and are likely not employed or on inactive status already. Therefore, the estimated costs to directly affected persons is the one-time fee of \$25 and loss of income for those currently employed and choosing retired status. There is no anticipated economic benefit to directly affected persons.

Re: Chapter 34—Licensees or individuals requesting to enroll in clinical nursing courses are offered the opportunity to resolve complaints of violations through alternative, informal or formal methods which would be more cost effective than full board hearings. It is difficult to determine an estimated effect; however, such effect might include such cost to the individual as attorney fees, travel to hearing, hearing cost, as well as, projected loss of salary or denial to enroll in clinical nursing courses dependent on the nature of the offense.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Re: Chapter 33—Individuals on retired status will no longer be allowed to practice. The majority of RNs requesting this status will be age 60 and over and are likely not employed or converting from inactive status. Therefore, this will have no significant impact on competition and employment.

Barbara L. Morvant, RN, MN
Executive Director
9802#100

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Lab Service Fees
(LAC 48:V.Chapter 137)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend the following rule pursuant to R.S. 40:29, as amended and reenacted by Act Number 840 of 1997, relative to costs of laboratory services provided by the Office of Public Health as submitted by any physician, hospital, clinic, nurse, veterinarian, sanitarian or any other licensed health care provider authorized by the Office of Public Health to submit specimens for scientific analysis. This current rulemaking will have the effect of rescinding *en toto* the rulemaking on this subject promulgated May 20, 1977 in Volume 3, Number 5 of the *Louisiana Register*, on pages 245-247. (The 1977 rule was apparently overlooked in the codification work in 1987, and it was not included in the *Louisiana Administrative Code* published in 1987.) This rulemaking will also have the effect of revising the lab fees set out in Volume 15, Number 6 of the *Louisiana Register* promulgated June 20, 1989, on pages 477-478 concerning neonatal and genetic screening, and testing for sexually transmitted diseases. This current rulemaking has been assigned to LAC 48:V.Chapter 137.

Title 48

PUBLIC HEALTH

Part V. Preventive Health Services

Subpart 51. Laboratory Fees

Chapter 137. Laboratory Services

§13701. Definitions

Unless the context otherwise requires, the words defined in §13701 shall have the following meanings in LAC 48:V.Chapter 137.

Billable Submitter—individual authorized to submit specimens for scientific analysis by the Division of Laboratories that does not fall into one of the categories listed under §13703.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

§13703. Applicability

A. These laboratory fees shall not be charged:

1. to the Office of Public Health of the Department of Health and Hospitals or for laboratory services for a patient at a clinic or health unit operated by the Office of Public Health or to any physician, nurse, dentist, veterinarian, sanitarian or other licensed health care provider who is treating a patient or providing services in an official capacity in relation to the treatment of a patient of the Office of Public Health of the Department of Health, including the network of parish health units operated by the Office of Public Health;

2. in any instance when the state health officer declares an epidemic, for any test, procedure, function, or operation related to such epidemic;

3. if exemption from payment is otherwise provided by the *State Sanitary Code*; or

4. to any state hospital or institution when the secretary of the Department of Health and Hospitals requires the Office of Public Health laboratory to act for such institution in case of emergency.

B. These fees shall be charged for all tests, procedures, functions, or any operations performed by each laboratory independently operated by the Office of Public Health of the Department of Health and Hospitals as a state laboratory on human specimens, environmental samples, cultures, analytical and research procedures and related services which are submitted by any physician, hospital, clinic or health unit not operated by the Office of Public Health, nurse, veterinarian, sanitarian or any other licensed health care provider authorized to submit specimens for scientific analysis by the Division of Laboratories of the Office of Public, DHH. The charges or fees for these services will be assessed according to the following schedule.

Test Description	Fee
1. Ab identification, RBC each panel, each serum technique	\$ 57
2. Ab screen, RBC each serum technique	\$ 21
3. Adenovirus Ab	\$ 18
4. Alpha Fetal protein (amniotic fluid)	\$ 22
5. Alpha Fetal protein (Serum)	\$ 22
6. Antibiotic Disc Test	\$ 4
7. Blood-Hemogram, automated and manual differential WBC (CBC)	\$ 8
8. Blood-RBC antigen other than ABO and Rh(D), each antigen	\$ 5
9. Blood-Rh (D) antigen	\$ 19
10. Blood-typing, ABO	\$ 4
11. Bordatella parapertusis Ab	\$ 19
12. Bordatella pertusis Antigen	\$ 19
13. Bordatella pertusis Culture	\$ 11
14. Borrelia Ab IgG (Relapsing fever)	\$ 19
15. Borrelia Ab IgM (Relapsing fever)	\$ 19
16. Borrelia Ab Total (Relapsing fever)	\$ 19
17. Brucella abortus Ab	\$ 14
18. Chlamydia AB(LGV)	\$ 18
19. Chlamydia testing by DNA gene probe, each probe used	\$ 18
20. Clinical chemistries/21 + amylase	\$ 15
21. Corynebacterium diphtheriae culture (throat or nose)	\$ 11
22. Coxiella Brunetti (Q fever) Phase 1-IgG and IgM	\$ 18
23. Coxiella Brunetti (Q fever) Phase 2-IgG and IgM	\$ 18
24. Cryptococcus Ab	\$ 21

25. Culture Typing, Precipitin Method (grouping) per antiserum	\$ 7
26. Culture Typing, Serologic method, agg grouping, per antiserum	\$ 7
27. Culture Typing, Serologic Method, speciation	\$ 5
28. Culture, Bact, screen, stool	\$ 13
29. Culture, Bact, anaerobe, ID, any source without GLC	\$ 11
30. Culture, Bact, ID, aerobe, any source	\$ 11
31. Culture, Bact, screen (aerobic and anaerobic plates)	\$ 15
32. Culture, Bact, screen, other source	\$ 12
33. Culture, Bact, screen, throat or nose	\$ 11
34. Culture, Bact, anaerobe, isolation, any source	\$ 13
35. Culture, Bacti, ID anaerobe with GLC	\$ 20
36. Culture, Bacti, ID any source, in addition to primary culture	\$ 8
37. Culture, Bacti, ID presumptive, any souce, multiple organism	\$ 12
38. Culture, Bacti, ID presumptive, any souce, single organism	\$ 10
39. Culture, Bacti, ID screen, any souce, single Organism	\$ 9
40. Culture, Bacti, ID, screen, multiple organisms	\$ 12
41. Culture, Bacti, ID, urine	\$ 9
42. Cytomegalovirus (CMV) Ab IgG	\$ 20
43. Cytomegalovirus (CMV) Ab IgM	\$ 20
44. Dengue Fever Ab	\$ 18
45. Encephalitis testing in birds (per viral study)	\$ 19
46. Encephalitis, Eastern Equine IgG	\$ 19
47. Encephalitis, Eastern Equine IgM	\$ 19
48. Encephalitis, La Crose (California) IgG	\$ 19
49. Encephalitis, La Crose (California) IgM	\$ 19
50. Encephalitis, Saint Louis IgG	\$ 19
51. Encephalitis, Saint Louis IgM	\$ 19
52. Encephalitis, Western Equine IgG	\$ 19
53. Encephalitis, Western Equine IgM	\$ 19
54. Enterovirus Ab (e.g. coxsackie, echo, polio)	\$ 19
55. Erlichia Ab	\$ 18
56. Estradiol Assay	\$ 52
57. Fluorescent Ab screen, each Ab (Bordatella)	\$ 18
58. Fluorescent Ab titer, each Ab	\$ 17
59. Fluorescent Antibody (Direct) (Rabies DFA)	\$ 18
60. Fluorescent Antibody (Indirect)	\$ 34
61. Fluorescent Antibody-double stain	\$ 8
62. Follicle Stimulating Hormone (FSH)	\$ 35

63. Francisella tularensis Ab	\$ 15
64. Glucose quantitative	\$ 7
65. Hepatitis, Anti-A	\$ 18
66. Hepatitis, Anti-C	\$ 18
67. Hepatitis, Anti-HBc Total	\$ 17
68. Hepatitis, Anti-HBe	\$ 18
69. Hepatitis, Anti-HBs	\$ 15
70. Hepatitis, HBe Ag	\$ 16
71. Hepatitis, HBs Ag	\$ 15
72. Herpes I Group IgG	\$ 19
73. Herpes II Group IgG	\$ 19
74. Herpes II Group IgM	\$ 19
75. Herpes simplex Type 1 and 2 Ab differential	\$ 20
76. HIV- Dry Blood spot analysis	\$ 6
77. HIV-1 EIA	\$ 13
78. HIV-1 WB	\$ 28
79. Human Arbovirus IgG	\$ 18
80. Human Arbovirus IgM	\$ 18
81. Human Chorionic Gonadotropic (hCG) Pregnancy Test-Quantitative	\$ 21
82. Human Chorionic Gonadotropic (hCG) Pregnancy Test-Qualitative	\$ 11
83. Human Rickettsia IgG	\$ 10
84. Human Rickettsia IgM	\$ 10
85. Influenza A Ab	\$ 20
86. Influenza B Ab IgG	\$ 20
87. Legionella Ab	\$ 21
88. Leptospira Ab	\$ 19
89. Leutinizing Hormone Assay	\$ 36
90. Lipoproteins HDL cholesterol	\$ 14
91. Lipoproteins triglycerides	\$ 11
92. Lymes-(Borellia burgdorferi) IgG	\$ 22
93. Lymes-(Borellia burgdorferi) IgM	\$ 22
94. Meningoencephalytic Ab (adult)	\$ 18
95. Meningoencephalytic Ab (childhood)	\$ 18
96. Mumps Virus Ab	\$ 19
97. Mycoplasma pneumonia Ab	\$ 19
98. Neisseria gonorrhoeae testing by DNA gene probe	\$ 18
99. Newborn Screening Panel	\$ 31
100. Parainfluenza I Ab	\$ 18
101. Parainfluenza II Ab	\$ 18
102. Borellia III Ab	\$ 18
103. Parasite large volume filtration	\$ 47

104. Polio Virus Ab-Type I	\$ 19
105. Polio Virus Ab-Type II	\$ 19
106. Polio Virus Ab-Type III	\$ 19
107. Prolactin Assay	\$ 36
108. R. rickettsii Ab to antigen (Rocky Mountain Spotted Fever) IgG or IgM	\$ 18
109. R. typhi Ab (Typhus fever) IgG or IgM	\$ 18
110. Rabies Analysis	\$ 73
111. Reovirus Ab	\$ 18
112. Respiratory Syncytial Virus (RSV) Ab	\$ 18
113. Rheumatoid factor-qualitative (latex)	\$ 8
114. Rheumatoid factor-quantitative	\$ 8
115. Rotavirus Ab	\$ 19
116. Rubella (German measles) Ab, IgG	\$ 20
117. Rubella (German measles) Ab, IgM	\$ 20
118. Rubeola (Red measles) Ab, IgG	\$ 18
119. Rubeola (Red measles) Ab, IgM	\$ 18
120. Sensitivity study; antibiotics, disk method, per plate (212)	\$ 10
121. Smear with interpretation	\$ 6
122. Syphilis test VDRL qualitative (serum and CSF)	\$ 6
123. Syphilis test VDRL-quantitative, MHA-TP (serum and CSF)	\$ 6
124. T cells including cell ratio	\$ 54
125. TB Panel (bilirubin, AST, uric acid, creatinine)	\$ 11
126. TB Screen-AST	\$ 7
127. TB, AFB, Antibiotic sensitivities; each drug (includes culture)	\$ 8
128. TB-AFB smear	\$ 8
129. TB-Concentration and Isolation of Mycobacteria, each	\$ 16
130. TB-DNA probe identification of AFB cultures	\$ 18
131. TB-HPLC Ident of Mycobacterium	\$ 26
132. Tissue Culture Studies	\$ 163
133. TORCH Ab (CMV, Herpes, Rubella, Toxo)IgG	\$ 82
134. TORCH Ab (CMV, Herpes, Rubella, Toxo)IgM	\$ 82
135. Toxoplasma Ab, IgG	\$ 18
136. Toxoplasma Ab, IgM	\$ 21
137. Treponema pallidum Ab-Confirmatory test FTA-ABS	\$ 19
138. Typhus in rats-antigen to antibody	\$ 10
139. Varicella Zoster Ab, IgG	\$ 18
140. Vibrio cholerae ID	\$ 93
141. Vibrio vulnificus ID	\$ 47
142. Viral Load studies for HIV	\$ 121

143. Virus ID-Tissue Cult. Additional Studies, each isolate	\$ 34
144. Virus ID-Tissue Cult. Inoculation and Observation	\$ 37
145. Virus ID-Tissue Cult. Inoculation of Egg/Small animal, Observation and Dissection	\$ 28
146. Yersinia pestis (plague) study in rats; includes slide prep, animal inoculation, plague demo	\$ 154
147. Any Public Health Biochemistry procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
148. Any Public Health Microbiology procedure not expressly stated will be charged based on the cost per unit of time(Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
149. Any Public Health Serology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
150. Any Public Health Virology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
151. Any Research Procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
152. A-1 (FC MPN)	\$ 20
153. Adipates/Phthalates	\$ 160
154. Alfatoxins (HPLC)	\$ 119
155. Alfatoxins (Screen)	\$ 40
156. Alkalinity (Total)	\$ 9
157. Aluminum	\$ 16
158. Antibiotic disc assay	\$ 16
159. Antibiotic sensitivity study/antibiotic	\$ 6
160. Antimony	\$ 33
161. Arsenic	\$ 16
162. Barium	\$ 16
163. Beryllium	\$ 16
164. BOD-5 day (manual)	\$ 160
165. BOD-Automated robotics testing	\$ 26
166. Bottled and Vended waters-Colilert	\$ 4
167. Bottled Water-Herbicides	\$ 237
168. Bottled Water-Trihalomethanes (THM)	\$ 33
169. Bottled Water-VOC (P/T)	\$ 172
170. Butter analysis	\$ 121
171. Butterfat, Babcock	\$ 27
172. Butterfat, Roesse-Gotlieb (Confirmation)	\$ 92

173. Butterfats and Nonfat Solids	\$ 32
174. C. jejeuni and C. campylobacter-Environmental	\$ 33
175. Cadmium	\$ 16
176. Cadmium in foods	\$ 3
177. Caffeine	\$ 79
178. Calcium hardness	\$ 8
179. Carbamates	\$ 200
180. Caustics	\$ 11
181. Cereal analysis-qualitative	\$ 1
182. Cereal analysis-quantitative	\$ 32
183. Charm I; App N antibiotic testing	\$ 13
184. Charm II; App N antibiotic testing-Cloxacillin	\$ 13
185. Charm II; App N antibiotic testing-Other	\$ 13
186. Charm II; App N antibiotic testing-Quantitative	\$ 40
187. Charm II; App N antibiotic testing-Sequential	\$ 13
188. Chemical Oxygen Demand (COD)	\$ 80
189. Chloride percent-Hypochlorites and Chloramines (screen)	\$ 7
190. Chloride percent; Hypochlorites and Chloramines (Confirmation)	\$ 21
191. Chlorides	\$ 7
192. Chromium	\$ 17
193. Coffee (chicory)	\$ 4
194. Coliform Determinations-Confirmed (includes MPN for coliform and fecal coliform)	\$ 31
195. Coliform Determinations-E. coli (Verified)-each isolate	\$ 13
196. Coliform Determinations-Fecal	\$ 8
197. Coliform Determinations-Fecal by MPN (includes presumptive, completed and confirmed tests)	\$ 45
198. Coliform Determinations-Fecal Coliforms (includes coliform and E.coli MPN)	\$ 31
199. Colilert	\$ 8
200. Color	\$ 5
201. Color and preservatives in food	\$ 80
202. Compliance analysis of nutritional content and labeling	\$ 13
203. Conductivity	\$ 7
204. Copper Flame AA	\$ 9
205. Copper ICAP	\$ 4
206. Corrosion Control (copper, lead, pH, Alkalinity, THRD)	\$ 53
207. Cosmetics (organoleptics, net weight, filth and foreign material)	\$ 13
208. Cryoscope (added water)	\$ 8
209. Cyanide	\$ 160

210. Dairy Waters-MTF	\$ 19
211. Diquat	\$ 200
212. Dissolved Oxygen (DO)	\$ 8
213. Drained weight analysis	\$ 7
214. Dry Skim Milk-Qualitative	\$ 3
215. Dry Skim Milk-Quantitative	\$ 119
216. Dual Column (confirmation)	\$ 33
217. E. coli 015:H7	\$ 27
218. E. coli MPN	\$ 31
219. E. coli speciation	\$ 20
220. Endothall	\$ 253
221. Ethylene Dibromide (EDB)	\$ 133
222. Etiological agent ID for consumer food, beverages	\$ 100
223. Fecal Coliform MPN (includes presumptive, completed and confirmed tests)	\$ 31
224. Filth and Foreign (filter)	\$ 5
225. Filth and Foreign (Macro)	\$ 5
226. Filth and Foreign (Micro)	\$ 7
227. Filth and Foreign (trap/sv)	\$ 389
228. Fluoride analysis	\$ 20
229. Fluorides	\$ 11
230. Foreign Fat (RI)	\$ 4
231. Formaldehyde testing (AIR)	\$ 409
232. Fossomatic CC	\$ 12
233. Fossomatic OSCC	\$ 13
234. Free CO2	\$ 12
235. Gamma screen	\$ 26
236. GC/MS Confirmation	\$ 479
237. General Chemistry (Borellia, Net weight, filth and foreign materials)	\$ 16
238. Glycol/Recirculating Water (10-Tube MPN)	\$ 13
239. Glycol/Recirculating Water (HPC)	\$ 8
240. Glyphosphate	\$ 160
241. Gross alpha and beta (Radon 222, Radium 226, Radium 228, Radon, Uranium)	\$ 67
242. Heavy Metal (ICAP)	\$ 100
243. Heavy Metals (Includes Hg)	\$ 180
244. Herbicides	\$ 240
245. Heterotrophic Plate Count (HPC)	\$ 8
246. Inorganic Chemicals	\$ 299
247. Iodine 131	\$ 396
248. Iron	\$ 17
249. Iron and alumina oxide	\$ 33
250. Lead-Other analysis by furnace atomic absorption	\$ 55

251. Lead analysis (wipes)	\$ 20
252. Lead analysis in water/chemistry	\$ 20
253. Lead analysis in waters schools, day care, water coolers, faucets/chemistry	\$ 20
254. Lead analysis of paint	\$ 40
255. Lead and copper analysis for private residence water	\$ 23
256. Lead-Blood lead Screen by Graphite Furnace Atomic Absorption	\$ 13
257. Listeria analysis-milk	\$ 27
258. Listeria analysis-food	\$ 100
259. Listeria culture-Environmental	\$ 20
260. Loss on Ignition	\$ 5
261. Manganese	\$ 16
262. Mercury in foods	\$ 79
263. Mercury in Water	\$ 20
264. Metal (1 metal) ICAP	\$ 16
265. Metals (13 metals)ICAP	\$ 53
266. Metals (4 metals) ICAP	\$ 24
267. Metals (ICAP) plus Mercury	\$ 180
268. Metals in food-ICAP	\$ 40
269. Microbiology culture for Environmental organisms (Listeria, Campylobacter, Yersinia, Salmonella, Staphylococcus and E.coli)	\$ 175
270. Milk Containers-paper and Plastic	\$ 17
271. Net Weight and Contents	\$ 7
272. Nickel	\$ 16
273. Nitrate	\$ 13
274. Nitrates and Nitrites	\$ 13
275. Nitrites	\$ 13
276. Nonfat Solids	\$ 5
277. Nuisance Organisms	\$ 20
278. Oil and Grease	\$ 158
279. Organoleptic Exam	\$ 3
280. Organoleptic Exam in foods	\$ 13
281. Oyster meat analysis for Vibrio and Salmonella	\$ 40
282. Oyster waters-analysis for Salmonella, Shigella, Vibrio, Staph	\$ 33
283. Oyster waters; metals	\$ 100
284. Oyster waters; organics	\$ 40
285. Oyster waters; Pesticides	\$ 233
286. Pesticide (Endrin, lindane, methoxychem. toxophene)	\$ 100
287. Pesticide battery 12 assays	\$ 201
288. Pesticide residues-food	\$ 273

289. Pesticide residues-grains	\$ 273
290. Pesticide residues-vegetables	\$ 233
291. Pesticide/PCBs in soil	\$ 246
292. Pesticides/Herbicides and PCB	\$ 100
293. Pesticides/metals-ICP	\$ 313
294. Pesticides/PCBs	\$ 233
295. Pesticides/PCBs (Food)	\$ 233
296. Pesticides/PCBs (HECD)	\$ 273
297. Pesticides/PCBs (NPD)	\$ 273
298. Pesticides/PCBS (Serum)	\$ 64
299. Pesticides/PCBS GC/MS	\$ 475
300. Pesticides/PCBs in seafood	\$ 233
301. Pesticides/PCBs in water (multi scan)	\$ 233
302. Pesticides/water (Multi scan)	\$ 231
303. pH	\$ 5
304. Phenols	\$ 319
305. Phosphatase by Fluorophos	\$ 7
306. Phosphatase by Sharer	\$ 11
307. Phosphatase by Sharer-Reactivation	\$ 46
308. Phosphatase by Sharer-Interfering Substances	\$ 11
309. Phosphatase by Sharer-Microbial	\$ 34
310. Phosphates	\$ 40
311. Polyaromatic Hydrocarbons (PAH)	\$ 79
312. Potassium	\$ 16
313. Priority Chemicals	\$ 166
314. Radionuclides; Gamma	\$ 53
315. Radium 226 and 228	\$ 725
316. Radon 222	\$ 79
317. Red Tide (Sample prep for mouse assay)	\$ 67
318. Red Tide (Tissue Culture assay)	\$ 133
319. Reducing Sugars	\$ 133
320. Residual Chlorine (chloramines)	\$ 20
321. Residue/insoluble materials (pipe scales)	\$ 237
322. Salinity	\$ 7
323. Salmonella analysis-food	\$ 27
324. Salmonella and Vibrio analysis	\$ 126
325. Salmonella culture	\$ 20
326. Salmonella culture-chocolate	\$ 47
327. Secondary Chemicals	\$ 146
328. Sediment analysis	\$ 240
329. Selenium	\$ 33
330. Shellfish-Microbial Screen (Staph aureus, Salmonella, Shigella, Vibrio, Listeria)	\$ 166

331. Silicates	\$ 40
332. Silver	\$ 16
333. Silvex 2-,4-D and 2,4 TP	\$ 237
334. Sodium	\$ 16
335. Sodium and Potassium	\$ 11
336. Staphylococcus analysis-Environmental	\$ 20
337. Staphylococcus aureus ID-Environmental	\$ 13
338. Strontium 89 and 90	\$ 396
339. Sulfates	\$ 8
340. Sulfides	\$ 47
341. Sulfite analysis-qualitative	\$ 3
342. Sulfite analysis-quantitative	\$ 48
343. Surfactants (MBAS)	\$ 158
344. Synthetic Organic Chemicals (13 classes)	\$ 1,131
345. Syrup-polarization	\$ 106
346. Thallium	\$ 33
347. Total Chlorine residual	\$ 11
348. Total Dissolved Solids	\$ 11
349. Total Hardness	\$ 8
350. Total Solids	\$ 11
351. Total Solids (lactometer)	\$ 7
352. Total Solids-Drying	\$ 17
353. Total Suspended Solids	\$ 27
354. Trihalomethanes (THM)-(Liquid/Liquid)	\$ 33
355. Trihalomethanes (THM)-(purge and trap)	\$ 79
356. Tritium (H3)	\$ 79
357. Turbidity	\$ 4
358. Unregulated Volatile Organics	\$ 173
359. Uranium	\$ 198
360. Urines for methylparathion	\$ 8
361. Vibrio cholerae Identification and Typing	\$ 150
362. Vibrio vulnificus Identification	\$ 118
363. Vitamin A	\$ 158
364. Vitamin A and D	\$ 185
365. Vitamin D	\$ 158
366. Volatile Organic Chemicals (VOCs) (Liquid/Liquid)	\$ 33
367. Volatile Organic Chemicals (VOCs) (Purge and Trap)	\$ 172
368. Yersinia culture-Environmental	\$ 30
369. Zinc	\$ 16
370. Zinc in foods	\$ 3

371. Any Environmental Chemistry and Toxicology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
372. Any Environmental Microbiology procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU
373. Any Research Procedure not expressly stated will be charged based on the cost per unit of time (Work Time Unit or WTU) as calculated by the fiscal department of the Office of Public Health	Not to exceed \$1.75 WTU

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 3:245 (May 1977), amended by the Department of Health and Hospitals, Office of the Secretary, LR 15:477 (June 1989), amended by the Office of Public Health, LR 24:

§13705. Billing and Payment Procedures

The fees shall be billed to the submitter as follows.

1. A submitter who meets the definition of a billable submitter and wishes to contract with the Division of Laboratories (DOL) to provide one or more of the laboratory tests described in the fee schedule should contact the health laboratory director or the health laboratory assistant director at (504) 568-5373 or in writing at Box 60630, New Orleans, LA 70160.

2. A contract stating the tests and associated fees to be charged will be signed by both parties and an account number assigned. The submitter will be issued a Laboratory Submission Manual by the DOL and may begin submitting specimens and samples following approved DOL procedures and lab submittal forms. The submitter must place the account number on all lab forms when requesting analysis.

3. Billing will be done on a monthly basis. The Division of Laboratories will submit an invoice of fees for laboratory services by the fifteenth each month for each separate account. The invoice shall describe the analysis performed, the date of analysis, date of report, the fee per test and the total charge for current services rendered. Past due amounts will be added to the current charges and the extended total provided.

4. The customer will remit payment by check within 30 days of the billing date. Checks will be made out to the Office of Public Health and mailed to Box 60630, New Orleans, LA. 70112. When the checks are received they will be credited to the appropriate account number by staff in the Division of Laboratories. A roster of checks by number and account will be generated. The checks and the accompanying check roster will be transferred to the Fiscal Office of DHH at 1001 Howard Avenue, New Orleans, LA 70112 for final processing within the state system.

5. If payment is not received within 30 days of the billing date, the DOL will issue a past due letter. The customer must respond in writing or by telephone if a discrepancy exists. Otherwise, payment by check to cover the overdue amount

on the statement must be made within 30 days of the date of the past due letter.

6. If the customer does not respond or payment is not received within 30 days, the account will be turned over to the OPH Fiscal Services Department and future laboratory services will be discontinued until full payment is made.

7. If the customer does not respond to the collection agency and payment is not received within 90 days of the transfer of the account to the collection agency then the account will be turned over to the DHH Bureau of Legal for action.

8. The DOL will engage the services of a CPA (Certified Public Accountant) to oversee the ongoing collection of fees and to audit the system on an annual basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:29.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:

A public hearing on the proposed amendment of these fees has been scheduled for 10 a.m, March 30, 1998, at the Office of Public Health, fourth floor conference room, 1201 Capitol Access Road, Baton Rouge LA.

Interested persons may comment on the proposed rule by contacting Susan Daigle, Department of Health and Hospitals, Office of Public Health, Box 60630, New Orleans, LA 70160, (504) 568-5378 prior to the scheduled public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Lab Service Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that it will cost about \$300,000 to implement delivery of services. Implementation costs include costs for operating services, accounting, tracking and management of revenues and purchase of supporting software. The Division of Laboratories will establish a fiscal mechanism for collection, monitoring and surveillance of revenues. Minimally, to implement this proposed rule would require personal and professional services of about \$80,000 in FY 97/98; \$85,000 in FY 98/99; and \$89,000 in FY 99/2000; operating services of about \$185,000 in FY 97/98; \$215,000 in FY 98/99; and \$221,000 in FY 99/2000; and equipment purchases of about \$35,000 in FY 97/98; \$25,000 in FY 98/99; and \$15,000 in FY 99/2000. Additional costs include a one-time cost of publication of this proposed rule in the *Louisiana Register* at about \$600.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the proposed rule will allow the Public Health Lab to generate funds of \$300,000 for laboratory services provided. The request for fee changes is a fiscally responsible move to cover the increased cost of necessary public health laboratory analyses resulting from new and advanced technology; emergence of new and antibiotic-resistant pathogens such as HIV, Ebola, Dengue fever; reemergence of previously controlled pathogens; advancing knowledge concerning the interconnection of environmental factors and public health, as

well as demand by the public for enhanced detection levels, capabilities, and capacity as it becomes available. Fees will be used to cover the cost of providing the services and to support public health programmatic functions. Added revenues will help put OPH on a sound fiscal basis buffered from changes in funding from outside sources. In addition, this updated and more realistic fee structure will allow the agency to make better strategically-based health decisions which are more in line with integrity and commitment to our vision and mission, rather than profit alone. Revenues will allow the lab to absorb the expense of testing that is done at low frequency and high cost and not performed in the public sector, such as Dengue fever or encephalitis and toxic chemicals in humans. Without the ability to collect fees for laboratory tests, the ability to achieve our mission to protect the public health would be seriously diminished.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Act 840 of 1997 allows health care providers to access specialized analytical public health services within the state rather than sending specimens out of state to private labs at increased cost. Additionally, it strengthens epidemic surveillance in Louisiana and assures that the data necessary to decision making and disease prevention in Louisiana is not lost. The proposed rule responds to public and private requests for services performed by the Public Health Laboratories and allows the state of Louisiana to be compensated for these services. Expanding community access to public health services enlarges the database of scientific knowledge, offers preventive health care to citizens seeking it and leads to a healthier population.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not have a significant impact on competition and employment in the public and private sectors. Both public and private sectors currently submit various samples and specimens to the Public Health Laboratory for analyses.

Bobby P. Jindal
Secretary
9802#081

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid—Eligibility of Aliens

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens or

nationals, but certain noncitizens may be eligible to receive only treatment for an emergency medical condition. Effective January 1, 1997, the department promulgated an emergency rule which adopted the mandatory provisions of P.L. 104-193. This rule addressed only the citizenship requirement: every applicant for Medicaid under any classification addressed in this rule must meet all requirements for eligibility (*Louisiana Register*, Volume 23, Numbers 1, 4, and 9). Previous regulations for Medicaid eligibility of lawful Permanent Residents and aliens permanently residing in the United States under Color Of Law (PRUCOL) no longer apply and were replaced by the January 1997 rule.

Effective August 5, 1997, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was amended by sections 5301-5306 and 5562-5563 of the Balanced Budget Act of 1997 as follows:

1. the eligibility period of refugees and asylees (includes those whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act and Cuban or Haitian entrants) increased from five to seven years; and

2. the definition of *qualified alien* was expanded to include aliens granted status as Cuban or Haitian entrants.

All noncitizens are classified as *qualified aliens* or *nonqualified aliens*. *Nonqualified aliens* include both illegal and ineligible persons.

Definitions

Illegal Aliens—aliens who were never legally admitted to the United States for any period of time or were admitted for a limited period of time and did not leave the United States when their period of time expired. *Illegal aliens* are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Ineligible Aliens—aliens lawfully admitted to the United States but only for a temporary or specified period of time as legal nonimmigrants. The following categories of individuals are *ineligible aliens*:

1. foreign government representatives on official business and their families and servants;

2. visitors for business or pleasure, including exchange visitors;

3. aliens in travel status while traveling directly through the U.S.;

4. crewmen on shore leave;

5. treaty traders and investors and their families;

6. foreign students;

7. international organization representation and personnel and their families and servants;

8. temporary workers including agricultural contract workers; and

9. members of foreign press, radio, film, or other information media and their families.

Ineligible aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

Qualified Aliens—aliens who:

1. are lawful permanent residents;

2. are refugees;

3. are asylees;

4. have had deportation withheld under section 243(h) of the Immigration and Nationality Act (INA);

5. are granted parole for at least one year by the Immigration and Naturalization Services (INS);

6. are granted conditional entry under immigration law in effect before April 1, 1980; or

7. are granted status as a Cuban or Haitian entrant.

Qualified aliens who are otherwise eligible for Medicaid, are eligible for regular Medicaid coverage.

Emergency Medical Services—services necessary for treatment of an emergency medical condition as follows. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. *Emergency Medical Services* do not include any organ transplant procedure or routine prenatal or postpartum care.

Mandatory Qualified Aliens—aliens who are:

1. *qualified aliens* who were in the United States prior to August 22, 1996, and are members of these groups:

a. lawful permanent residents to whom 40 qualifying quarters of Social Security can be credited;

b. refugees until seven years after the date of the alien's entry into the United States;

c. asylees until seven years after the grant of asylum;

d. aliens who have had deportation withheld under section 243(h) of the INA until seven years after the grant of withholding;

e. honorably discharged veterans who fulfill the minimum active-duty service requirements; aliens on active duty in the United States armed forces; the spouse or unmarried dependent child(ren) of such individuals; and the unremarried surviving spouse of a deceased honorably discharged veteran;

f. aliens granted status as Cuban or Haitian entrants until seven years after status granted.

2. *qualified aliens* entering the United States on or after August 22, 1996, who are members of the groups below:

a. refugees for seven years from date of entry;

b. asylees for seven years from date of entry;

c. aliens whose deportation has been withheld under section 423(h) of the INA for seven years from grant of withholding;

d. honorably discharged veterans who fulfill the minimum active-duty service requirements; aliens on active duty in the United States armed forces; the spouse or unmarried dependent child(ren) of such individuals; and the unremarried surviving spouse of a deceased honorably discharged veteran;

e. aliens with Cuban or Haitian entrance status until seven years from grant of status.

3. Native Americans born in Canada who have at least 50 percent Native American blood who enter and reside in the United States.

Optional Qualified Aliens—persons who meet the definition of *qualified aliens* but who are not *mandatory qualified aliens*. Effective December 21, 1997, the state elected to provide regular Medicaid coverage to *optional qualified aliens* who were in the United States prior to August 22, 1996.

Optional qualified aliens entering the United States on or after August 22, 1996 (those not described as *mandatory qualified aliens* above), are not eligible for Medicaid benefits for five years after entry into the United States. Such *qualified aliens* are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the *optional* group of *qualified aliens* meets all eligibility criteria.

Effective December 21, 1997, the department adopted an emergency rule (*Louisiana Register*, Volume 23, Number 12) in order to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to amendments to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) contained in the Balanced Budget Act of 1997 (P.L. 105-33).

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33) regarding Medicaid eligibility for noncitizens.

The state elects to provide regular Medicaid coverage to *optional qualified aliens* who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

Optional qualified alien groups entering the United States on or after August 22, 1996, are not eligible for Medicaid for five years after entry into the United States. Such *qualified aliens* are eligible for emergency services only. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the *optional qualified alien* meets all eligibility criteria.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing will be held on Friday, March 27, 1998, at 9:30 a.m. in the Auditorium of the Department of Transportation and Development, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. on the next business day following the public hearing.

Bobby P. Jindal
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medicaid—Eligibility of Aliens

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The fiscal impact for this proposed rule cannot be determined, as aliens are not a separate eligibility category and each case must be individually evaluated at application or redetermination. However, \$220 will be incurred in SFY 1997-98 for the state's share of promulgating this proposed rule as well as the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Federal revenue collections cannot be determined, as aliens are not a separate eligibility category and each case must be individually evaluated at application or redetermination. However, the federal share of promulgating this proposed rule as well as the final rule is \$220 for SFY 1997-98.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated costs and/or economic benefits to directly affected persons or nongovernmental groups cannot be determined as aliens are not a separate eligibility category and each case must be individually evaluated at application or redetermination. There is no known estimated revenue impact resulting from this rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no known effect on competition and employment.

Thomas D. Collins
Director
9802#083

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Gaming Control Board

Video Draw Poker—Gaming
Establishments (LAC 42:XI.2415)

The Gaming Control Board hereby gives notice that it intends to amend LAC 42:XI.2415.C.3 in accordance with R.S. 27:1 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42 LOUISIANA GAMING Part XI. Video Poker

Chapter 24. Video Draw Poker §2415. Gaming Establishments

A. - C.1. - 2. ...

3. No video draw poker devices which a qualified truck stop facility is licensed to operate on the premises shall be located or operated in the convenience store, trucker lounges,

laundry rooms, shower rooms, and/or hallway areas of the truck stop facility. Video draw poker devices shall be located and operated in areas designated primarily for gaming, as defined in R.S. 27:301 et seq., and/or in lounges/bars and restaurants that meet the criteria of R.S. 27:301 et seq., and Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950. In areas legally accessible to minors the device areas shall comply with the provisions of R.S. 27:302(D)(2) and LAC 42:XI:2415.D.2.

D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:

All interested persons may contact Tom Warner, Attorney General's Gaming Division, phone (504) 342-2465 and may submit written comments relative to these proposed rules through March 13, 1998 to 339 Florida Boulevard, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Video Draw Poker—Gaming Establishments

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs to state or local governmental units estimated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No measurable costs and/or economic benefits to directly affected persons or nongovernmental groups are estimated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
9802#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police

Motor Carrier Safety and Hazardous
Materials (LAC 33:V.10303)

The Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section

proposes to amend LAC 33:V.10303 pertaining to Motor Carrier Safety and Hazardous Materials requirements to add part 382 of 49 CFR (Controlled Substances and Alcohol Use and Testing) as authorized by R.S. 32:1501 et seq. The proposed amendment is critical to the Motor Carrier Safety efforts and consists solely of the addition of 49 CFR part 382.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials

§10303. Federal—Motor Carrier Safety and Hazardous Materials

A. ...

Hazardous Materials Regulations

Parts 171 - 180 ...

Motor Carrier Safety Regulations

Part 382 Controlled Substances and Alcohol Use and Testing

Parts 383 - 397 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:

Interested persons may submit written comments until 4:30 p.m., March 20, 1998, to Paul Schexnayder, Attorney, Department of Public Safety and Corrections, Office of State Police, Legal Section, Box 66614, Baton Rouge, LA 70896.

Thomas Normile
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motor Carrier Safety and Hazardous Materials

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation cost (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no additional costs to the affected groups; these are updates of existing rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Thomas Normile
Undersecretary
9802#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Support Enforcement and Program Administration
(LAC 67:III.Chapter 25 and repeal of §2751)

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, SES will cooperate in automated administrative enforcement in interstate cases. Recent review of the SES State Plan by the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), prompted that agency to advise SES to incorporate this change into the *Louisiana Administrative Code*, §2525. OCSE review also prompted SES to clarify and expand language pursuant to Public Law 104-193 and R.S. 9:311(C) wherein the procedure for review and adjustment of child support cases has been changed (§2512).

Further review of the *Louisiana Administrative Code* for SES revealed that regulations at §2519 and §2751 should be repealed, having been obsoleted by changes in state and federal laws. In order to correctly codify regulations at this time, LAC 67:III.Chapter 25.Subchapter G is being reserved and the current policy at §2525 will maintain its history and be renumbered §2520. Therefore, §2525 as it appears in this notice is new. Language in other sections is being updated to clarify current regulations.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter C. Formula for Support Obligation

§2511. Child Support Award Guidelines

The child support award guidelines established in R.S. 9:315 et seq. shall be used in any proceeding to establish or modify child support orders. There shall be a rebuttable presumption that the amount of the child support established by use of the guidelines is the proper amount of child support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315 et seq., 45 CFR 302.56.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:497 (September 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:807 (October 1989), LR 16:34 (January 1990), amended by the Office of Family Support, LR 24:

§2512. Adjustment of Child Support Orders

SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review, SES will conduct the review and, if appropriate, judicially adjust the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, §351 and R.S. 9:311(C).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:

Subchapter E. Individuals Not Otherwise Eligible §2519. State Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33, 45 CFR 232.11(a)(1), 45 CFR 232.11(a)(4), 45 CFR 302.31, 45 CFR 302.32, 45 CFR 302.51, 45 CFR 302.52 and 45 CFR 232.11.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:111 (April 1976), repealed by the Department of Social Services, Office of Family Support, LR 24:

§2520. Locate Fee for Non-FITAP Recipients (previous §2525)

The IV-D Program shall charge a fee of \$10 per request for non-FITAP, locate-only requests. An additional \$4 charge shall be made if the Social Security Number of the noncustodial parent is not provided.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.70.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:

§2521. Child Support Application Fee for Non-FITAP Applicants

SES will charge an application fee of \$25 for services to individuals who do not receive FITAP, Medicaid, or IV-E Foster Care assistance. When SES takes the application, the SES regional office will collect the fee. When a contracted office of the district attorney takes the application, the district attorney's office will collect the fee and retain the nonfederal share of the fee.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:

Subchapter F. Cooperation with Other States

§2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases.

B. SES may transmit a request for assistance to another state by electronic or other means in a case involving the enforcement of a support order. The request shall contain sufficient information to enable the receiving state to compare such information with information in its data base. The request shall constitute a certification of the amount of court-ordered support which is in arrears, and that the state has complied with all procedural due process requirements applicable to the case.

C. SES shall promptly respond to a request made by another state for automated enforcement of a support order. SES shall maintain records of the number of such requests for assistance received, the number of cases for which support was

collected in response to such a request, and the amount of support collected.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:

Subchapter G. Reserved (previously Parent Locator Service)

(Editor's Note: The previous §2525 is relocated and renumbered §2520.)

Subchapter I. Tax Refund Offset

§2533. Federal Tax Refunds

A. SES shall collect past-due support by federal tax refund offset according to federal criteria.

B. SES shall deduct the processing fee imposed by the Internal Revenue Service from each non-FITAP payee's refund check.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Family Support, LR 24:

Chapter 27. General Program Administration

Subchapter B. Reserved (previously Notice of Collection of Assigned Support)

§2751. Annual Notice of Collection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.54.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), repealed LR 24:

Interested persons may submit written comments to Vera W. Blakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed rule. The deadline for the receipt of all written comments is 4:30 p.m. on the day of the public hearing.

A public hearing on the proposed rule will be held on March 27, 1998 at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 504-342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Support Enforcement and
Program Administration**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The administrative nature of the proposed rule will require minor policy and form revisions which can be routinely

accomplished. Automated administrative enforcement and the change in adjustment of support can be implemented with existing personnel and automated systems. The immediate cost of implementation in FY 97/98 is negligible. There are no anticipated costs or savings to local governmental units,

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An increase in child support collections by the state may result, but no amounts can be projected at this time. There is no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Parties to child support orders may have an increase or decrease in support being paid or received.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
9802#079

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services**

Vocational Rehabilitation Policy Manual
Applicant/Client Appeal Rights and Rehabilitation
Technology (LAC 67:VII.107 and 115)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Rehabilitation Services proposes to amend the following rule in the Vocational Rehabilitation Services Policy Manual: Applicant/Client Appeal Rights and Rehabilitation Technology.

The rule governing Rehabilitation Services' policy relative to applicant/client appeal rights and policy relative to rehabilitation technology is being revised to meet the regulations set forth in the final federal regulations for the state Vocational Rehabilitation Program.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. Vocational Rehabilitation Policy Manual

§107. Applicant/Client Appeal Rights

A. Administrative Review

* * *

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client must be through the public court system.

2. The fair hearing is a process which may be used by applicants/clients to appeal disputed findings of an administrative review, or as a direct avenue of appeal bypassing the administrative review option.

3. The fair hearing will be conducted by an impartial

hearing officer within 45 calendar days of receipt of the initial written request if no administrative review was conducted and within 30 calendar days if the fair hearing follows an administrative review.

4. The impartial hearing officer must render a final decision within 30 calendar days following the fair hearing.

5. The entire appeal process, whether it is inclusive of the administrative review or not, will not exceed 45 calendar days unless an exception is agreed upon jointly by the participating parties, i.e.:

a. the applicant/client and/or their representative, if applicable;

b. the appropriate regional manager, and the impartial hearing officer.

6. An exception to this time line should only be made as a result of sufficient cause as agreed upon by the participants. However, if the request for a fair hearing is directly related to an agency decision to end or alter services in progress, then a fair hearing must be conducted and a decision must be reached within 60 calendar days of the initial request.

7. The client will not have the option of requesting delays past this time.

8. The failure of the client who is contesting an agency decision regarding a plan of services currently in progress to participate in a fair hearing within the 60-calendar-day requirement will result in a dismissal of the appeal.

Note: The maximum 60-calendar-day time period for participating in a fair hearing with a resulting decision does not apply to applicants/clients requesting an appeal regarding matters other than services currently in progress. With sufficient cause and joint agreement of the participating parties, the fair hearing and decision can be delayed for a longer period of time.

9. The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Services Vocational Rehabilitation Advisory Council.

10. The impartial hearing officer shall be selected to hear a particular case on a random basis, or by agreement between the LRS director and the applicant/client (or the client's representation, as appropriate).

11. All applicants/clients must be provided adequate notification of appeal rights regarding eligibility, determination of severe disability, the provision or denial of rehabilitation services, and/or the client's right to representation. Unless services being provided under the current Individualized Written Rehabilitation Program have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client, such services will continue during the fair hearing appeal process.

12. If an administrative review has been conducted, in order to insure that the applicant/client is afforded the option of availing themselves of the opportunity to pursue a fair hearing, adequate notification by the regional manager must include:

- a. the agency's decision;
- b. the basis for, and effective date of, that decision;
- c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Director's Review of Fair Hearing

1. The director shall notify the individual of the intent to review a fair hearing decision in whole or in part within 20 calendar days of the mailing of the impartial hearing officer's decision to the individual.

2. If the director decides to review the decision, the individual shall be provided an opportunity to submit additional evidence and information relevant to a final decision.

3. The director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless:

a. the initial decision is arbitrary, capricious, an abuse of discretion, or otherwise unreasonable;

b. the initial decision is not supported by substantial evidence, i.e., consistent with the facts and applicable federal and state policies;

c. the initial decision by the impartial hearing officer has not given appropriate and adequate interpretation to such factors as:

i. the federal statute and regulations as they apply to the specific issue;

ii. the state plan as it applies to the specific issue in question;

iii. the state procedures manual as it applies to the issue in question;

iv. key portions of conflicting testimony;

v. state agency options in the delivery of services if such options are permissible by federal statute;

vi. restrictions in the federal statute or regulations with regard to such supportive services as maintenance and transportation;

vii. approved federal or state agency policy as it relates to the issue in question.

4. A final decision shall be made in writing by the director within 30 calendar days of providing notice of intent to review the impartial hearing officer's decision and shall include a full report of the findings and the grounds for the decision. The director shall provide a copy of the final decision to such individual.

D. Impartial Hearing Officers

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 24:

§115. Financial

A. - A.1.b.v. ...

vi. rehabilitation technology;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:

Interested persons may submit written comments for 40 days from the date of this publication to May Nelson, Louisiana Rehabilitation Services, 8225 Florida Boulevard, Baton Rouge, LA 70806. She is responsible for responding to inquiries.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Vocational Rehabilitation Policy
Manual—Applicant/Client Appeal Rights and
Rehabilitation Technology**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no projected implementation cost. This proposed rule changes the criteria used by the director in the decision to review the impartial hearing officer's decision. Louisiana Rehabilitation Services (LRS) has sufficient funds to provide for the operation of Louisiana Rehabilitation Services as Act 18 of 1997 was approved by the Louisiana Legislature. LRS has contracted with approximately 18 providers statewide for an estimated \$200,000 in order to provide fair hearings.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated increase or decrease in revenue.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There is no change in the estimated cost and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9802#080

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Highways/Engineering**

Joint Use Agreements
(LAC 70:III.1901)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is

hereby given that the Department of Transportation and Development intends to adopt a rule entitled "Joint Use Agreements," in accordance with R.S. 48:381.1.

Title 70

TRANSPORTATION

Part III. Highways/Engineering

Chapter 19. Contracts, Leases and Agreements

§1901. Joint Use Agreements

A. Elements of the Lease

1. At the initiation of the lease, DOTD's Real Estate Section will estimate the fair market lease value of the property. That value will be utilized in determining the amount charged as a rental fee. At the conclusion of a five-year term, the market value of the leased property will be reassessed. If the lessee chooses not to renew the lease and pay the revised fair market value as a fee, the lease shall expire.

2. DOTD property that is "excess," or that was expropriated through unfriendly negotiations will not be eligible for lease. DOTD "excess" property shall be disposed of in accordance with R.S. 48:224 and EDSM Number I.1.1.10, and shall not be leased.

3. Property that bears improvements constructed with public funds will not be eligible for lease for a period of 20 years from the date of completion of said improvements.

4. Preference in use of right-of-way is as follows:

- a. highway purposes;
- b. drainage purposes;
- c. legal street connections purposes;
- d. legal driveway connections purposes;
- e. utilities purposes;
- f. joint use (lease) purposes.

5. Preference for availability of joint use leases shall be given to the following entities, in the following order:

- a. governmental bodies using the property for the general public and generating no revenue;
- b. governmental bodies;
- c. the land owner from whom the property was expropriated;
- d. adjacent land owners;
- e. general public.

6. Title and control of the area of right-of-way involved will remain with DOTD.

7. Subleasing is prohibited without the prior written consent of DOTD.

8. Use of property shall be in accordance with local building and zoning ordinances and/or codes.

9. DOTD may terminate the lease agreement at any time and require lessee to vacate the premises and remove all improvements. Improvements not removed by lessee within 30 days may be removed by DOTD at lessee's expense.

10. The lease shall be subordinate to any existing agreements between DOTD and other parties affecting the leased property.

11. Illegal activities on the premises conducted by lessee are prohibited and shall trigger automatic termination of the lease.

12. All heavy commercial activity and the serving of alcohol are prohibited on the leased premises.

B. Application Procedure

1. Parties interested in leasing state right-of-way must contact the headquarter's utility and permit engineer at the permit office of DOTD.

2. The applicant must submit, in writing to the headquarter's utility and permit engineer, a proposal detailing the use of the property including a location description. The headquarter's utility and permit engineer will distribute copies of the proposal to the district office and other appropriate parties within the department.

3. DOTD will investigate proposed highway improvements in the area and the viability of leasing the property.

4. If a lease agreement is viable, then the applicant must submit:

a. a layout map of the requested area showing DOTD right-of-way, including a metes and bounds description;

b. a written metes and bounds description of the area labeled as "Exhibit A";

c. detailed plans showing any improvements to be placed on the premises including structures, type of material used, appearance, fences which may be required, and any other pertinent information, labeled "Exhibit B";

d. vertical clearance between area to be used and bottom of overhead structure.

5. DOTD's Real Estate Section will estimate the fair market lease value of the property.

6. If more than one party is interested in leasing the same parcel of property:

a. DOTD shall first attempt to facilitate a cooperative endeavor agreement between the parties, so that the property can be shared;

b. if a cooperative endeavor is not possible, then §1901.A.5 shall be utilized to select a lessee;

c. if two or more parties tie for top choice, then DOTD shall initiate a bidding process as follows:

i. all parties will be informed of the bid situation and given 30 days to prepare bids;

ii. DOTD shall designate a date to receive sealed bids;

iii. the headquarter's utility and permit engineer shall open all bids on the same day;

iv. bids more than 10 percent below the estimated fair market value shall be rejected. All bids for uses that the headquarter's utility and permit engineer deems prohibited, inappropriate, or inconsistent with use of the property by DOTD shall be rejected. If any bids remain, the lease shall be awarded to the highest bid. If no eligible bids remain, then the bid process may be repeated. If there are still no eligible bids, then all proposals shall be discarded. In the event of a tie, the tied parties will be allowed to toss a coin to determine the winning bidder.

7. DOTD performs all required reviews of the request, including an environmental assessment. The applicant may be required to submit corrected and/or additional information.

8. Once the submittal is complete and correct and the environmental clearance is issued, the request is given final approval by the headquarter's utility and permit engineer.

9. The request is then submitted to the Federal Highway Administration (FHWA) for review and becomes effective upon the concurrence of FHWA. (Note: FHWA concurrence is not required for some state routes.)

C. Improvements

1. No improvements or alterations, including landscaping, shall be made upon the premises without written approval of DOTD.

2. The improvements and the property must be maintained by the lessee in good condition. Maintenance must be accomplished so that there is no unreasonable interference with the transportation facility.

3. All plans for construction of any improvements must be reviewed and approved by DOTD. Preliminary plans must be submitted with the initial application.

4. At the conclusion of the lease, all improvements must be removed leaving the property in its original condition. In special cases improvements may remain with written consent from DOTD, provided there is no expense to DOTD.

D. Maintenance and Inspection

1. The lessee shall, at its sole expense, keep and maintain the premises at all times in an orderly, clean, safe, and sanitary condition.

2. If proper maintenance is not performed, DOTD reserves the option to cancel the lease or perform the maintenance and obtain reimbursement from the lessee.

3. The lessee shall maintain the premises at the lessee's own expense, including all driveways, fences, and guardrails, subject to the approval of DOTD. The lessee shall be liable for reimbursement to DOTD for any damage to DOTD property.

4. On-premise signs, displays, or devices may be authorized by DOTD, but shall be restricted to those indicating ownership and type of activity being conducted in the facility, and shall be subject to reasonable restrictions with respect to number, size, location, and design.

5. Inspections of the property may be performed by a DOTD representative to assure compliance with all the rules set forth in the lease. DOTD specifically reserves the right of entry by any authorized employee, contractor, or agent of DOTD for the purpose of inspecting said premises, or the doing of any and all acts necessary on said premises in connection with protection, maintenance, painting, and operation of structures and appurtenances. DOTD reserves the further right, at its discretion, to immediate entry upon the premises and to take immediate possession of the same only in case of any national or other emergency and for the protection of said structures; and, during said period, lessee shall be relieved from the performance of all conditions of the agreement.

6. All structures shall be of fire resistant construction as defined by the applicable building codes, and will not be utilized for the manufacture of flammable material, or for the storage of materials or other purposes deemed by the DOTD or Federal Highway Administration to be a potential fire or other hazard to the highway.

7. The lessee shall secure all necessary permits required in connection with operations on the premises and shall comply with all federal, state, and local statutes, ordinances, or regulations which may affect the lessee's use of the premises.

E. Liability of Lessee

1. The lessee shall occupy and use the property at its own expense, and shall hold DOTD, its officers, agents, and employees, harmless from any and all claims for damage to property, or injury to, or death of, any person entering upon same with lessee's consent, expressed, or implied.

2. The lessee shall carry liability insurance to indemnify claims resulting from accidents and property damage, which coverage shall be extended to include the facilities authorized in this agreement, to provide for the payment of any damages occurring to the highway facility and to the public for personal injury, loss of life and property damage resulting from lessee's use of the premises. DOTD shall be named as an additional insured and proof of such required insurance shall be provided to DOTD prior to occupancy. The insurance company and lessee shall notify DOTD, in writing, at least 30 days prior to cancellation of changes affecting the required insurance coverage.

F. Credit Check and Security Deposit

1. DOTD may require a credit check.

2. A security deposit may be required at the discretion of the DOTD.

G. Payment

1. Payment will be due on the first day of every year. If the lease begins in the middle of the year, the rent will be prorated for that year according to the number of days remaining in that year.

2. At the discretion of DOTD, payment may be due on a monthly basis.

3. Payments must be made by check, money order, or certified check.

4. If a lessee submits a bad check for payment, he will no longer be allowed to pay with personal checks. Future payments must be made by certified checks or money orders.

H. Governmental Entities

1. The fees may be waived for governmental entities if there is no revenue derived by the use of the property.

2. If the revenue generated is not sufficient to cover operating expenses and the joint use fee, the rent may be reduced to 10 percent of the gross revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Highways/Engineering, LR 24:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of the notice of intent to John Collins, Headquarter's Utility and Permit Engineer, Box 94245, Baton Rouge, LA 70804-9245, (504) 379-1509.

Frank M. Denton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Joint Use Agreements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The provisions of this rule will be implemented using existing staff and resources. There are no implementation costs to the Department of Transportation and Development or to local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State revenue collections will increase by approximately \$20,000 per year. This calculation assumes that the Department of Transportation and Development executes one new lease per year, and that each lease will generate \$20,000 per year. (Most joint use agreements will be with governmental units and will generate no revenue.) All fees collected will be credited to the Right-of-Way Permit Processing Fund in the state treasury to be used to defray the expenses of the right-of-way permit office.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Persons and nongovernmental groups will benefit from the ability to lease property to expand or initiate business ventures. It is not possible to calculate this benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action may increase employment, but the overall effect on competition or employment will be negligible.

Frank M. Denton
Secretary
9802#084

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the Teachers' Retirement System**

Deferred Retirement Option Plan (DROP)
Withdrawal (LAC 58:III.511 and 519)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given by the Board of Trustees of Teachers' Retirement System of Louisiana (TRSL) of its intent to amend rules relative to the withdrawal of Deferred Retirement Option Plan (DROP) funds.

Title 58

RETIREMENT

Part III. Teachers' Retirement System

Chapter 5. Deferred Retirement Option Plan (DROP)

§511. Change of Drop Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, or 5. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the following schedule for all DROP participants first eligible to begin withdrawing on or after November 19, 1996:

Life Expectancy Schedule		
Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
55 or under	360 months	30 years
55 and one day to 60	310 months	25.8 years
60 and one day to 65	260 months	21.7 years
65 and one day to 70	210 months	17.5 years
70 and one day and older	160 months	13.3 years

C. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by the TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be payable to the participant until official notification of termination of employment, on the prescribed form, is received in the office of TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), LR 24:

§519. Application for DROP

A member shall not begin their DROP participation until TRSL has received a fully completed, signed, and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), LR 24:

Interested persons may comment on the notice of intent in writing until 4:30 p.m., April 30, 1998, to Bonita B. Brown, Assistant Director, Teachers' Retirement System of Louisiana, Box 94123, Baton Rouge, LA 70804-9123.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Deferred Retirement Option Plan (DROP) Withdrawal

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule revises DROP withdrawal rules to allow one change per 12-month period and revises life expectancy tables to conform to federal law. No costs will be incurred by state or local governmental units as a result of these revisions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units by the revision of these proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no impact on costs to directly affected persons or nongovernmental groups. Directly affected persons will have more flexibility to schedule their DROP account withdrawals and will have a longer life expectancy during which to receive these withdrawals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of the revision of these proposed rules.

James P. Hadley, Jr.
Director
9802#041

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Reef Fish Daily Take and Size
Limits (LAC 76:VII.335)**

The Wildlife and Fisheries Commission does hereby give notice of intent to amend LAC 76:VII.335, modifying commercial red snapper harvest requirements and establishing a closed season for commercial harvest of greater amberjack, as part of the existing rule for daily take, possession and size limits for reef fishes set by the commission. The authority for adoption of this proposed rule is included in R.S. 56:6(25)(a), 56:326.1 and 56:326.3.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

**Title 76
WILDLIFE AND FISHERIES**

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

**§335. Reef Fish—Daily Take, Possession and Size Limits
Set by Commission**

* * *

E. All persons who do not possess a Class 1 or Class 2 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico reef fish resources are limited to the recreational bag limit for red snapper. Those persons possessing a Class 2 red snapper licenses issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico reef fish resources are limited to a daily take and possession limit of 200 pounds of red snapper per vessel.

F. Those persons possessing a Class 1 red snapper license issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources are limited to a daily take and possession limit of 2,000 pounds of red snapper per vessel.

* * *

J. The season for the commercial harvest of greater amberjack shall be closed during the months of March through May of each year. Possession of greater amberjack in excess of the daily bag limit while on the water is prohibited during the closed season. Any greater amberjack harvested during the closed season shall not be purchased, sold, traded, bartered or exchanged or attempted to be purchased, sold, traded, bartered or exchanged. The provisions of §335.J apply to fish taken within or without Louisiana's territorial waters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:

Interested persons may submit written comments on the proposed rule to Harry Blanchet, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Friday, April 3, 1998.

Daniel J. Babin
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Reef Fish Daily Take and Size Limits

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no state or local governmental implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenues to any state or local governmental units from the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule is intended to provide consistent regulations for commercial fishers harvesting reef fishes in state waters and in adjacent federal waters. The proposed regulation would modify licensing requirements for commercial harvest of red snapper to remain consistent with federal regulations and establish a closed season for commercial harvest of greater amberjack that would run from March through May.
Reduction of harvest of any or all of these fish may reduce benefits to commercial harvesters. Reduced benefits could occur from increased costs associated with increased fishing efforts and from differential values of redirected harvested species compared to greater amberjack. Overall benefit reductions are not estimable at this time. Long-term benefits may also accrue to fishermen in both recreational and commercial sectors as a result of possible increases in the stocks protected by the proposed limits. No additional costs, permits, fees, workload or paperwork will occur from the proposed rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be little or no effect on employment in the public or private sector. Some harvesters may redirect their fishing efforts to other species, geographic areas, or into nonfishing activities.

Ronald Couvillion
Undersecretary
9802#035

Richard W. England
Assistant to the
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 8-10, 1998, beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: February 28, 1998

Re-Take Candidates: March 14, 1998

Reciprocity Candidates: May 8, 1998

Further information pertaining to the examination may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to February 28, 1998. Questions may be directed to (504) 925-7772.

Bob Odom
Commissioner

9802#019

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given April 27-May 1, 1998, at 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is March 13, 1998. No applications will be accepted after March 13, 1998.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to March 13, 1998. Questions may be directed to (504) 925-7772.

Bob Odom
Commissioner

9802#020

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication Hearing—1998 Assessment

The Boll Weevil Eradication Commission will hold an adjudicatory hearing beginning at 10 a.m., March 10, 1998 at the Department of Agriculture and Forestry, Commissioner's Conference Room, 5825 Florida Boulevard, Baton Rouge, LA, relative to the setting of the amount of the 1998 assessment, pursuant to R.S. 3:1613 and LAC 7:XV.9921. Said assessment shall not exceed \$35 per acre of cotton planted for 1998.

All interested persons are invited to attend and will be afforded an opportunity to participate in the adjudicatory hearing. Written comments will be accepted, if received prior to March 9, 1998, by John Andries, Director, Boll Weevil Eradication Program, Box 3118, Baton Rouge, LA 70821-3118.

Dan P. Logan, Jr.
Chairman

9802#042

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Termite Baiting Pilot Project—1998 (LAC 7:XXV.135)

In the October 20, 1998 *Louisiana Register*, (Volume 23, Number 10) the Department of Agriculture and Forestry, Structural Pest Control Commission amended a rule to include §135.J.8 establishing a pilot program for the use of bait and baiting systems. Under that rule the Structural Pest Control Commission reevaluates products in the pilot program prior to the end of the first quarter of every calendar year.

The Structural Pest Control Commission, at its meeting held on February 4, 1998, reviewed products used in the pilot bait and baiting system project. The products listed below are approved for use in the pilot bait and baiting system project for 1998.

MANUFACTURER	PRODUCT
FMC	Firstline GTX Termite Bait Station Firstline GT Termite Bait Station Firstline Termite Bait Station
DOWELANCO	Recruit AG
CYANAMID	Subterfuge

Bob Odom
Commissioner

9802#089

POTPOURRI

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

Lafourche Parish Ozone Designation Correction

In the December 5, 1997, *Federal Register*, the U.S. EPA proposed a correction of the ozone designation for Lafourche Parish to ozone nonattainment. This action was effective on January 5, 1998. Provisions of LAC 33:III.504 are in effect for Lafourche Parish until such time as the one-hour ozone standard is revoked for that area.

Questions regarding this notice should be directed to Annette Sharp at (504) 765-0914.

Gustave Von Bodungen, P.E.
Assistant Secretary

9802#030

POTPOURRI

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

State Implementation Plan (SIP)
General Provisions—1997

The Department of Environmental Quality (DEQ), Office of Air Quality and Radiation Protection, Air Quality Division gives notice that the public hearing to receive comments regarding revisions to the State Implementation Plan (SIP) scheduled for February 27, 1998, at 1:30 p.m., with comments to be received by March 6, 1998, has been canceled and rescheduled.

The new hearing date will be March 30, 1998, at 1:30 p.m. on the third floor of the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. All interested persons are invited to attend and submit oral comments on the SIP revisions. Written comments may be submitted no later than April 6, 1998, to Carla Ogden, Air Quality Division, Box 82135, Baton Rouge, LA 70884-2135

or to 7290 Bluebonnet Boulevard, Second Floor, Baton Rouge, LA 70810.

The revisions include amendments to various rules promulgated and not yet sent to the Environmental Protection Agency for inclusion in the SIP in LAC 33:III.Chapters 2, 5, 6, 13, 14, 15, 21, 23, 25, and 30. A copy of the SIP changes may be viewed Monday through Friday, from 8 a.m. to 4:30 p.m., at the Department of Environmental Quality Headquarters, Air Quality Division, 7290 Bluebonnet, Second Floor, Baton Rouge, LA.

Direct questions or comments to Carla Ogden at (504) 765-0916.

Gustave A. Von Bodungen, P.E.
Assistant Secretary

9802#031

POTPOURRI

**Department of Environmental Quality
Office of Water Resources**

Cost/Benefit Analysis for the Water
Pollution Control Fee System (WP026)

The Department of Environmental Quality has amended the Water Pollution Control System Fee Regulations (WP026) which will increase the annual fees charged by the department to water discharge permittees. The amendment increases annual fees by 7.5 percent effective July 1, 1998 and by another 7.5 percent on July 1, 1999. The fee was specifically authorized by Act 1245 of the 1997 Louisiana Legislature.

The fee increase will provide funding for the Office of Water Resources to fully implement state and federal mandates regarding developing Total Maximum Daily Loads (TMDLs). The rule will affect approximately 400 municipal facilities and 2,200 other facilities currently included in the fee system. By adequately funding the Louisiana TMDL program, the fee increase will allow assessment, development, and implementation directly by the state of Louisiana instead of the federal government. It is believed that this will allow the program to more accurately reflect Louisiana's priorities and unique environment.

This statement is prepared to satisfy the requirements of R.S. 30:2019(D) and R.S. 49:953(G) (Acts 600 and 642 of the 1995 Louisiana Legislature, respectively). However, this document is not a quantitative analysis of cost, risk, or economic benefit, although costs of implementation were identified to the extent practical. The statutes allow a qualitative analysis of economic and environmental benefit where a more quantitative analysis is not practical. The department asserts that the benefits of a rule designed to support a federally mandated improvement in water quality justify the costs associated with the fee increase.

Therefore, the qualitative approach is taken with this risk/cost/benefit statement. As discussed further in this document, this amendment to the Water Pollution Control Fee

System provides environmental and economic benefits. Assessing dollar benefits of avoided environmental risk or economic benefits of this rule is not practicable. In addition, the department asserts that the indirect and direct environmental and economic benefits to be derived from this rule will, in the judgment of reasonable persons, outweigh the costs associated with the implementation of the rule and that the rule is the most cost-effective alternative to achieve these benefits.

Risks Addressed by the Rule

The fee rule addresses the risks associated with the pollution of water bodies in the state which result from uncontrolled or improperly allocated discharges to these water bodies from point and nonpoint sources. It does this by providing adequate funds for the Office of Water Resources to determine Total Maximum Daily Loads (TMDLs) in a timely manner on surface water bodies listed by the state in 1996 as not fully supporting their designated uses under Section 303(d) of the Federal Water Pollution Control Act (Clean Water Act). In Louisiana, seven water uses are designated for surface water bodies:

1. primary contact recreation;
2. secondary contact recreation;
3. fish and wildlife propagation;
4. drinking water supply;
5. oyster propagation;
6. agriculture; and
7. outstanding natural resource waters.

Currently, approximately one-third of the assessed water bodies in Louisiana are listed as not fully supporting their designated uses.

Numerous risks are associated with impaired water bodies. Human health risk may result due to exposure to pollutants in water bodies through drinking, bathing, swimming or other direct contact with pollutants such as pathogens or toxic chemical agents. There may be direct risk to aquatic life, both plant and animal. This can result from exposure to toxic chemical agents, chlorides, low dissolved-oxygen concentrations due to pollutant loadings, and other factors. Damage to aquatic life, as well as loss of aesthetic quality of surface water bodies, also leads to other indirect risks, such as risk of economic losses due to impairment of commercial and recreational fishing, hunting, swimming, camping, and ecotourism. It should also be noted that surface water bodies are a major source of drinking water in Louisiana, and their protection is essential for providing safe drinking water for its citizens.

Environmental and Health Benefits of the Rule

By providing adequate funding for performance of TMDLs by the Office of Water Resources, the fee rule revision will provide numerous environmental and public health benefits which have great economic value to the state. With this funding, the Office of Water Resources will be able to determine total maximum daily loads for listed surface water bodies in the state. Water bodies are listed on the 303(d) list because they are not currently supporting their designated uses due to pollutants or impacts of pollutants (such as low dissolved oxygen).

The TMDL for a substance is the sum of the individual waste

load allocations for the point sources discharging to a water body, the load allocations for nonpoint sources and the natural background, and a margin of safety. TMDLs are based on water quality standards and, when calculated for a water body, determine the maximum pollutant load (including a safety factor) the water body can receive and fully support its designated uses and applicable water quality standards. By determining TMDLs for Louisiana water bodies, the Office of Water Resources will be able to provide accurate and equitable waste load allocations for point discharges which will be protective of stream quality, human health, and the environment.

The Office of Water Resources anticipates the fee increase will ultimately fund 36 new positions to assist in the development of TMDLs. These positions will be filled as revenue collections permit. The office will perform TMDLs on listed streams over a period of 12 years. These additional personnel will be utilized to collect instream data, develop and execute water quality models, develop and implement TMDLs, and provide the required written documentation and rule changes necessary to appropriately document the process.

According to the 1996 Water Quality Inventory, 66 percent of the assessed water bodies in the state do fully support their designated uses and another 22 percent of assessed water bodies partially support their designated uses. However, a significant number of streams, lakes, rivers, and other water bodies in Louisiana are impacted by pollutants and, as a result, do not fully support their designated uses. Twenty-nine percent of the 15,623 assessed stream miles do not fully support their designated uses. Thirty percent of the 661,028 assessed lake acres do not meet their designated uses.

Through a vigorous TMDL development program funded by the revised fee rule, the Office of Water Resources will determine TMDLs for streams which are listed as impaired on the 303(d) list. TMDL development is fundamental to restoring surface water bodies in Louisiana so that designated uses are fully supported and that human health and the environment are protected and to the continued protection of these resources.

Restoring and preserving water quality in Louisiana also has indirect but strong economic benefit for the state which counterbalances the cost of the TMDL program. As surface water occupies 7 percent of the surface area of the state, Louisiana's water resources are significant contributors to the economy of the state. Recreational and commercial fish contribute to over \$1,000,000,000 annually to the state's economy. Hunting and nonconsumptive outdoor activities contribute another \$656,000,000 annually to the economy. These economic benefits are largely dependent on the quality of surface water in Louisiana and could be lost or diminished if the waters of the state are not adequately protected.

For more detailed information on water quality in Louisiana and on the costs and benefits of protecting the state's waters, the reader may refer to the *Water Quality Management Plan, State of Louisiana, 1996 Water Quality Inventory, Volume 5, Part B*.

Social and Economic Costs

This rule is an amendment to simply raise fees that are already assessed and as such there are no significant costs to

implement the rule. The cost of the rule to the regulated community is the amount of the fee increase. The rule increases the annual fee on all Louisiana water discharge permittees. The annual fee for permit holders is determined by multiplying the rating points of the facility by a rate factor. Rating points are determined by wastewater type and volume. The rule increases the rating factor for all permittees (except for general permit holders) by 7.5 percent effective July 1, 1998, and by another 7.5 percent effective July 1, 1999. The rating factors and minimum and maximum fees are increased, as follows:

	Rating Factor	Minimum Fee	Maximum Fee
Municipal (Current)	\$97.50	\$227.50	\$94,500
Municipal (Year One)	\$104.81	\$244.56	\$101,587
Municipal (Year Two)	\$112.12	\$261.63	\$108,675
Other (Current)	\$179.16	\$227.50	\$94,500
Other (Year One)	\$192.60	\$244.56	\$101,587
Other (Year Two)	\$206.03	\$261.63	\$108,675

This fee increase will result in approximately a 7.5 percent increase in fee revenues across the board the first year of the fee and another 7.5 percent the second year. Based on this, the fee increase is projected to cost the regulated community approximately \$864,000 in the first year and \$1,728,000 in the second year.

By July 1, 1999, the minimum fee increase for a single facility, as a result of this revised rule, will be \$34.13, and the maximum fee increase will be \$14,175. The fee increase will affect approximately 400 municipal facilities and approximately 2,200 commercial facilities.

Conclusion

The department believes that the benefits of enhanced environmental and public health protection, as well as other benefits, outweigh the costs of implementation of the rule. Therefore, the rule is obviously the most cost-effective alternative to achieve these benefits.

Linda Korn Levy
Assistant Secretary

9802#037

POTPOURRI

Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examinations

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral

Director exams on Saturday, March 14, 1998, at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

9802#022

POTPOURRI

Department of Health and Hospitals Board of Veterinary Medicine

Board Meeting Dates

The Board of Veterinary Medicine will meet on the following dates in 1998.

Thursday, January 22, 1998
Wednesday, April 23, 1998
Wednesday, June 17, 1998
Wednesday, August 19, 1998
Wednesday, October 14, 1998
Wednesday, December 2, 1998

Charles B. Mann
Executive Director

9802#039

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well No.	Serial No.
Arrowhead Oil and Gas, Inc.	Caddo Pine Island	R A McCain etal	001	095339
Atlas Fuel Supply, Ltd.	Caddo Pine Island	Washington	001	218027
James D. Barber	Buckhorn	Anderson	001	185033
Deltex Oil Company	Golden Meadow	J Cheramie	010	035973

Divi Oil and Gas	Lake Marydale	Hanson MacDonald Fisher Lbr Co	001	138431
Divi Oil and Gas	Lake Marydale	Fisher Lumber Co	001	206647
Divi Oil and Gas	Lake Marydale	Fisher Lumber Co	003	207093
Divi Oil and Gas	Lake Marydale	Exchange-Fisher Lbr Corp	001	208286
Divi Oil and Gas	Lake Marydale	Fisher Lbr Co A	002	208738
Divi Oil and Gas	Lake Marydale	Callon-Fisher Lbr Co	001	208892
Fairway Minerals Corporation	Longwood	Miller	007	055201
Fairway Minerals Corporation	Longwood	Miller	003	076826
Fairway Minerals Corporation	Longwood	Miller	009	156611
Fairway Minerals Corporation	Longwood	Miller	001	076205
Fairway Minerals Corporation	Longwood	Miller	002	076259
Fairway Minerals Corporation	Longwood	Miller	004	076714
Fairway Minerals Corporation	Longwood	Miller	005	067096
Fairway Minerals Corporation	Longwood	Miller	006	060162
Sherman Hunt et al	South Lake Maurepas	Lutcher and Moore Cypress	002	149622
LA-Nap Oil and Gas, Inc.	Richie	Fred Dupre	001	205729
T. J. Operating Co., Inc.	Cheneyville	CF 1 RA SUA;Weil Company Inc.	1-D	146598
T. J. Operating Co., Inc.	Cheneyville	Weil	001	213126
T. J. Operating Co., Inc.	Cheneyville	Weil Co Inc "A"	004	020718
White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	3-A	121668
White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	005	120915

White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	012	125986
White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	14-A	126605
White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	011	124488
White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	015	126064
White Oil Company	Tullos Urania	Urania Lbr Co Ltd et al	006	121098

Warren A. Fleet
Commissioner

9802#086

POTPOURRI

Department of Social Services Office of Community Services

Weatherization Assistance Program

The Department of Social Services, Office of Community Services is submitting a State Plan to the U.S. Department of Energy (DOE) for funding of the 1998-99 Weatherization Assistance Program. Pursuant to federal regulations (10 CFR 440), a public hearing is required prior to DOE's approval of the plan.

The Weatherization Assistance Program provides services to low-income households, and in particular, households in which elderly, handicapped and/or children reside. The purposes of weatherization activities are:

- a) to reduce home heating and cooling costs of low income households;
- b) to provide a more comfortable and safe home environment for low-income residents; and
- c) to help reduce the consumption of fossil fuels.

The public hearing is scheduled for Wednesday, March 11, 1998, at 1:30 p.m. in Baton Rouge, LA, at 333 Laurel Street, Room 652 (sixth floor training room). Louisiana's grant for the 1998-99 program year is \$955,398. Any additional Department of Energy funds which may become available during the 1998-99 program year will be expended according to the approved State Plan.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of Community Services at (504) 342-2288 or by writing to Box 3318, Baton Rouge, LA 70821. Written comments will be accepted through April 1, 1998.

Madlyn B. Bagneris
Secretary

9802#090

POTPOURRI

**Department of Transportation and Development
Office of the Secretary**

Greater New Orleans Mississippi River Bridge
Number 2 Transit Lanes—Substantive
Change Hearing (LAC 70:I.515)

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of a public hearing to be held on substantive changes to its proposed rule applicable to the transit lanes on the Crescent City Connection Bridge Number 2.

The proposed rule, published on page 1451 of the October 1997 *Louisiana Register*, would impose an annual permit fee of \$100 for vehicles containing two or more persons, and the substantive change would eliminate such fee and allow passage on the transit lanes by vehicles displaying a regular toll tag and meeting the minimum occupancy requirement of two or more people.

The hearing on the elimination of the annual fee from the proposed rule will be held at 10 a.m. on Monday, March 30, 1998, at the offices of the Crescent City Connection Division, 2001 Mardi Gras Boulevard, New Orleans, LA.

Alan LeVasseur
Executive Director

9802#009

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